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ABSTRACT

A collection of 33 working papers for presentation at a research forum on the Constitution and the independent sector is presented. Thirteen sections cover: (1) the Constitution--"The Metapolitical Role of Voluntary Organizations in the United States" (Hall), "The Evolution of the Law of Nonprofit Organizations" (Hansmann); (2) management issues--"Effective Managers of Nonprofit Organizations" (Heimovics and Herman), "The Decision Making and Allocation Process in Corporate Philanthropy" (Useem), "Recruitment, Management, and Retention of Volunteers--From a Volunteer's Perspective" (Finlay); (3) economics--"The Independence of the Independent Sector" (Rose-Ackerman), "Nonprofits in a Mixed Economy" (Weisbrod), "Toward a New Economics for the Nonprofit Sector" (Gassler); (4) tax reforms effects on giving and volunteering--"Individual Giving Under the Tax Reform Act of 1986" (Lindsey), "Tax Reform and Volunteering" (Schiff); (5) philanthropy abroad--"Themes in International Research on the Nonprofit Sector" (Anheier), "Voluntarism in France: Sketches from Life, Pictures of Research" (Ferrand-Bechmann), "Charitable Giving by Individuals in Great Britain" (Brophy); (6) philanthropic activities of the wealthy--"Varieties of Philanthropic Logic among the Wealthy" (Schervish and Herman), "The Values of the Wealthy" (Boris); (7) philanthropic activities among minorities--"The Charitable Giving and Voluntarism of Black Americans" (Carson), "Giving to Jewish Philanthropic Causes" (Silberstein, Ritterband, Rabinowitz, and Kosmin); (8) legal issues--"The Buck Trust" (Dale), "The Combined Federal Campaign" (Dale), "Legal Issues Involving Competition by Nonprofits with Small Business" (Hopkins); (9) voluntary organizations--"A Community Institutional Response to a Crisis in Social Service Funding: The Twin Cities Case" (Galaskiewicz), "An Information System for Public-Private Decision-Making" (Von Elm), "Changing Public/Private Roles in Human Services" (Musselwhite and Salamon); (10) competition--"Entrepreneurial Activities of the Nonprofit Sector" (Young), "Commercial Activities in Human Service

Organizations" (De Vita Salamon); (11) history and values--"The Public and Independent Sectors: Separate Strategies or Partnership?" (Chambers), "Philanthropy and Social Values" (Paul and Ahrens); (12) women in philanthropy--"Lady Bountiful and Her Good Works?" (Odendahl), "Philanthropic Activities of Wealthy Women" (Ostrander), "Older Generation, Younger Generation: Transitions in Women's Volunteer Lives" (MacLeod); and (13) the Constitution and the independent sector--"The Constitution and Voluntary Organizations" by (Wyszomirski), "Democracy and Voluntarism" (Van Til), "Groping for Groups: The Case of Non-Profits" (Soifer). (SM)

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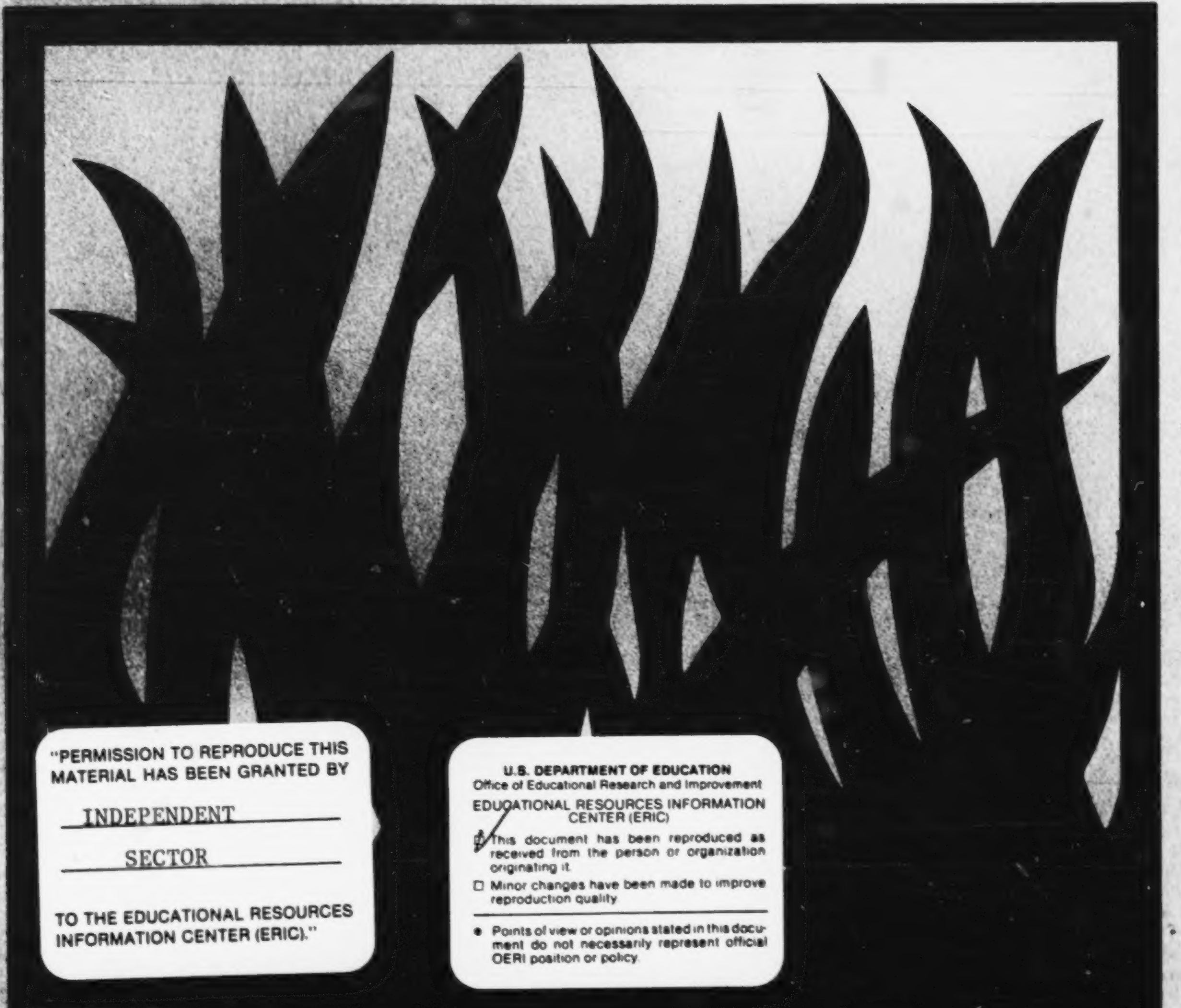

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FOREWORD

Here are the collection of working papers for the 1987 Spring Research Forum: "The Constitution and the Independent Sector." The Forum, which is co-sponsored by INDEPENDENT SECTOR and United Way Institute, will be held on March 19-20, 1987 at the Vista International Hotel in New York City.

This year marks the bicentennial of the Constitution of the United States. It is a good year to remember that the nonprofit sector of the United States was flourishing long before the Constitution, and that its leaders were influential in the framing of the Constitution. Even after the Bill of Rights was passed, charitable organizations provided leadership in advocacy movements and philanthropy to help meet the needs of the diverse citizenry of a new nation. Part of this year's Spring Research Forum will address the impact of voluntary organizations in the framing of the Constitution, on the creation and interpretation of the American legal system in the post-Constitution era, and on various ammendments and interpretations of the Constitution over the past two centuries.

David Mathews, president of the Kettering Foundation and former secretary of the Department of Health, Education and Welfare, will deliver the keynote address, "The Public and the Constitution," on March 19.

The diversity and breadth of the papers contained in this volume reflect the growing interest among scholars to conduct research on the independent sector. It is with particular pleasure that we can provide in these papers the first results of research projects currently underway or just completed. Much of the information included here has not been published elsewhere. The first section includes papers for the general session on March 20 , "The Constitution and the Independent Sector: A Colloquy." The following sections are divided into twelve topical areas for the panel discussions: (1) management issues; (2) economics of the nonprofit sector; (3) tax reform effects on giving and volunteering; (4) philanthropy abroad; (5) philanthropic activities of the wealthy; (6) philanthropic activities among minority groups; (7) legal issues affecting philanthropy; (8) voluntary organizations in an era of changing resources; (9) competition and the nonprofit sector; (10) history and values; (11) women in philanthropy; and (12) the Constitution and nonprofit organizations.

The authors were asked to address three questions on their topics: (1) What questions need to be addressed on the topic?; (2) What research has been or is currently underway to address these questions?; (3) How can the results of this research be used? Through these papers and the Forum sessions, we hope to expand and extend the development of a basic body of knowledge on the nonprofit sector and its role and functions in American society.

We urge you to review papers on special topics of interest to you and to prepare questions for the discussion sessions. The authors will not present their papers at the panel sessions, but rather be prepared to discuss the issues in their papers with those attending these sessions. The panel sessions are intended as an opportunity for fuller discussion of the research on a topic among both authors and those in attendance.

As you review these papers, registrants are asked to select three to six areas of particular interest so that on March 19 and 20, you can select three panel sessions to attend.

Finally, we would like to thank the authors who voluntarily agreed to contribute these papers and met stringent deadlines. The opinions expressed in these papers are those of the authors and not necessarily those of INDEPENDENT SECTOR or of United Way Institute. The contributions of these authors provide us with a major beginning toward charting the research map on the role and functions of the independent sector and its impact on society both in the United States and abroad. Their work also will provide direction for future researchers in the years ahead.

We look forward to meeting on March 19-20.

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Vice President, Research
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SECTION ONE:
THE CONSTITUTION AND THE INDEPENDENT SECTOR

The Metapolitical Role of Voluntary Organizations in the United States

by Peter Dobkin Hall. 3

The Evolution of the Law of Nonprofit Organizations

by Henry Hansmann 17

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THE METAPOLITICAL ROLE OF VOLUNTARY ORGANIZATIONS IN THE UNITED STATES

Peter Dobkin Hall
Program on Nonprofit Organizations
Institution for Social & Policy Studies
Yale University
January 1987

The research on which this paper is based has been supported by grants from the American Council of Learned Societies, AT&T Foundation, Ellis L. Phillips Foundation, Equitable Life Assurance Society of the United States, Exxon Education Foundation, Teagle Foundation, and the Program on Nonprofit Organizations, Yale University.

Few of the institutions considered most characteristically American existed when the constitutional convention met in Philadelphia in 1787. There were political factions, but no political parties. Business corporations were a novelty: less than a hundred had been chartered by the states. Organized private charity was virtually unknown: only the largest cities, New York and Philadelphia boasted hospitals. Though private support of the colleges was growing, in the quarter century preceeding the Convention, colonial and state governments underwrote more than sixty percent of the annual operating expenses of Harvard and Yale. Even voluntary church support was was uncommon. Most of the states still maintained established churches that were supported by taxation.

After the ratification of the Constitution in 1789, the business corporation, the political party, the organized charity, and privately supported churches and colleges grew rapidly. By 1800, more than two hundred for-profit and nonprofit corporate charters had been granted by legislatures in the New England States alone.[1] But it was only by the late 1820s that Tocqueville could have enunciated his ubiquituosly quoted lines about the disposition of Americans to "constantly form associations" without fear of contradiction.

What had happened between 1789 and 1830 to make private associations so important? And, more specifically, what role did the Constitution have in fostering the associational impulse?

The Founding Fathers did not envision a nation in which private associations would play an important role. One of the strongest arguements in favor of the Constitution was that it would "break and control the violence of faction." Factions and parties, as Madison noted in *Federalist #10*, brought "instability, injuctice, and violence" into public life and "have, in truth, been the mortal diseases under which popular governments have everywhere perished."[2] The Founders gave little thought to other kinds of private associations. The debates of the Constitutional Convention mention corporations only in passing, in the course of a discussion of whether Congress should have the power to create corporations "in cases where the public good may require them, and the authority of a single State" may be incompetent" to do so.[3a] At another point in the debates, it was suggested and affirmed that

> the United States shall be for ever considered as one Body-corporate and politic in law, and entitled to all the rights, privileges and immunities to which Bodies Corporate do, or ought to appertain.[3b]

The *Federalist Papers* gave voluntary organizations -- for-profit or non-profit -- similarly short shrift. The terms "charity," "association," and "corporation" do not appear in its text -- in spite of extensive attention to the general issue of the American economy.

Why did the Founders say so little about private voluntary associations? The primary reason has to do with their vision of public life in America. Emerging from the English colonial tradition, they believed that public issues should continue to be - as they had been - matters decided by the wealthy, learned, and respectable. Although they had taken the lead in organizing a revolution against British rule, few conceived of their struggle as a revolution in the domestic social, economic, or political order which, through 1789, was a curious combination of popular participation (through such institutions as the town meeting) and deference (to the desires of "natural leaders"). The Constitution was viewed as a mechanism which would perpetuate these patterns of elite leadership and popular deference -- and which would curtail many of the democratizing tendencies unleashed by the Revolution and so shockingly manifested in popular uprisings in Massachusetts and Pennsylvania during the mid-1780s.

At the time that the Constitution was drafted, voluntary associations were viewed as quasi-official entities. Their charters represented delegations of public tasks to private groups. Because such groups were regarded as creatures of the state, rather than of private interests, their charters were neither perpetual nor free of oversight and intervention by the state. For this reason, corporations in the early republic were nearly all public utilities of one kind or another: banks and insurance companies (to promote economic growth); turnpike, canal, and bridge companies (to facilitate commerce); and churches, learned societies, colleges, and seminaries (to promote useful learning). The state was frequently represented on the governing boards of these organizations, either through ex-officio positions or, in the case of the banking and insurance companies, through stock ownership. And the states reserved an unlimited right to alter or terminate such private corporations.

Even granting this circumscribed and contingent status to private groups was controversial. In Connecticut, one letter writer to the Hartford *Courant* in 1787 fretted

> If the legislature may mortgage, or . . . charter away portions of either the privileges or the power of the state -- if they may incorporate bodies for the sole purpose of gain, with the power of making bye-laws, and of enjoying the emoulement of privilege, profit, influence, or power, -- and cannot disannul their own deed, and restore to the citizens their right of equal protection, power, privilege, and influence, - the consequence is, that some foolish and wanton assembly may parcel out the commonwealth into little aristocracies, and so overturn the nature of our government without remedy.[4]

In the South, feeling ran more strongly. In the 1780s, the Virginia legislature not only repealed the Statute of Charitable Uses, but took control of charitable endowments held by such private bodies as the Episcopal Church. As late as 1809, when the movement towards the privatization of corporations was already well underway elsewhere, the Chief Justice of that state's Supreme Court handed down a decision in which he asserted

> With respect to acts of incorporation, they ought never to be passed, but in consideration of the services rendered to the public. . . . It may often be convenient for a set of associated individuals to have the privileges of a corporation bestowed upon them; but if their object is merely private or selfish; if it is detrimental to, or not promotive of, the public good, they have no adaquate claim upon the legislature for privileges.[5]

Suspicion of private associations, especially in a formal corporate form were reiterated in the early 1790s, when Alexander Hamilton sought a charter for the Bank of the United States. The proposed bank, essential to Hamilton's efforts to create a national economy, would have served as the principal depository for government funds, acted as fiscal agent for the Treasury, created a circulating medium, and exercised control over the operations of state-chartered banks. Like the banks already chartered by the states, the Bank of the United States would have operated under substantial government control: its charter was limited to twenty years; the federal government owned twenty percent of its stock and appointed five of twenty-five directors; its operations were to be subject to the oversight of the Secretary of the Treasury. Nevertheless, the bank was vigorously opposed. One member of Congress exclaimed that he would "no more be seen entering a bank than a house of ill-repute." Another denounced it as "an engine of corruption."[6] Even Jefferson, Madison, and Attorney General, Edmund Randolph, all expressed doubt that chartering a bank lay within the legitmate powers of the national government.[7] Although the bill incorporating the bank passed the House by a vote of thirty-seven to twenty, President Washington, took weeks to sign it, while he engaged in "anxious and diligent inquiries into the constitutionality of the bill and in the consideration of his duty in relation to it."[8]

Attitudes towards voluntary associations only began to change in the 1790s. That private voluntarism followed from the establishment of the new national government in no way suggests that the Framers intended that this should occur. It was, rather, an unintended consequence of political conditions established by the Constitution. At the same time -- ironically -- the Constitution, though itself a public document, served as a model for these private organizations. The essential new condition promoting private voluntarism flowed from the fact that a strong federal government altered the scale of the policy process. As has been noted, the Framers, in creating a national government, had hoped to elimate the power of faction. "By faction," Madison wrote,

> I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.[9]

Madison saw the new Constitution controlling faction by two means. First, the fact that the government was representative rather than being being "a pure democracy . . . a society consisting of a small number of citizens, who assemble and administer government in person," meant that public views would be refined and enlarged

> by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations."[10]

Secondly, by electing representatives from many localities, the new government would

> extend the sphere and . . . take in a greater variety of parties and interests . . . [making] it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.[11]

In doing this, the Framers created a situation which encouraged those who felt strongly about particular issues to create new kinds of organizations capable of forging broad translocal alliances.

Such organizations began to make their influence felt by the mid-1790s. The actions of the federal government and by its supporters on the state level had begun to arouse substantial opposition. As Madison had predicted, this opposition tended to be locally based and, left to itself, of only local significance. In Massachusetts, farmers still chafed against the property qualifications in the state constitution which gave undue power to the wealthy and the merchants of the coastal cities. In Connecticut, religious dissenters challenged the hegemony of the state-supported Congregational Church. In New York City and Philadelphia, artisans, excited by the egalitarianism of the French Revolution, pressed for further democratization of state and local governments and a national foreign policy favoring the French over the English. In the South, planters viewed with alarm the rising influence of northern merchants and manufacturers over federal policy and feared the passage of legislation that would interfere with their rights to own slaves and trade freely with England.

In 1794, Thomas Jefferson, exhausted by his struggles with Alexander Hamilton, retired from government. Ostensibly he was leaving public life. In fact, he had set himself the task of creating a nationally-organized opposition. From Monticello, he began writing to prominent state and local opposition leaders and newspaper editors, seeking out the areas of broad agreement on which a national coalition could be formed. By the late 90s, he was encouraging the formation of political clubs (analogous to clubs like the Sons of Liberty, which had played so important a role in the Revolution) and a secret political bureaucracy. The latter was based on state and local "managers," who agreed on which candidates to back and who, using the clubs, were able to "deliver the vote."

The Federalists protested vigorously against such "electioneering." Their protests ultimately took the form of repressive statutes -- the Alien and Sedition Acts -- whose purpose was to curtail opposition activity by punishing criticism of officeholders and restricting the naturalization of new citizens who, it was assumed, were likely recruits to the Jeffersonian cause. But the Federalist's ineptness only served their enemies, bearing out Anti-Federalist accusations of their "aristocratic" sympathies and their hostility to popular government. As the election of 1800 approached, it seemed increasingly clear that the Federalists would be ousted from power.

Contrary to the fears of the more pessimistic Federalists, the election of Jefferson did not result in a "Reign of Terror." His election did, however, largely destroy the system of popular deference on which the usually Federalist "natural" leadership of wealth, learning, and respectability had based its power. Unable -- and frequently unwilling -- to muster popular support through the means so successfully deployed by the Jeffersonians, the elite was forced to create organizations which at once an alternative and an important complement to political authority.

The character of these organizations cannot be understood without some additional discussion of the changes wrought on public life by the Constitution. As has been noted, the Framers hoped to eliminate faction by requiring opposition to government to forge the broadest possible basis of support. Because the United States was a nation of diverse interests and beliefs, it became impractical to attempt to form national coalitions favoring the interests particular sects, industries, or occupations. The result of this need to accommodate diversity was the divorce of explicitly moral issues from political ones. The Constitution thus redefined public policy. After 1789, it consisted of debates over particular legislative and administrative matters. But the moral and perceptual agendas underlying those issues became matters of private concern.

This excision of moral and perceptual issues from the public policy process created an opportunity for the politically disenfranchised post-Jeffersonian elite. Since government was limited from acting in these areas by both practical and constitutional considerations, important kinds of power were "up for grabs." These included: 1) the ability to define which areas of activity in society were defined as public concerns; 2) the ability to shape the perception of problems amenable to public policy (and by that process, implicitly suggesting their solutions); 3) the ability to create the interpersonal and institutional alliance systems underlying legislative and judicial consensus. As Tocqueville would later note, the formal deliberations and decisions of public bodies show the state "only as it already is."[12] Underlying these actions are less visible but no less important forces which, some Federalists realized, could be institutionally shaped.

The Federalists, especially those whose ecclesiatical interests were being attacked by the Jeffersonians, were quick to recognize these opportunities. As early as 1792, when an "Act of Union" enabled Yale College to admit senior members of the legislature to sit in an ex-officio capacity on its board in exchange for state financial aid, its president, Ezra Stiles, had justified the action as one which would increase the civil power of the established churches:

> The clergy will have a particular and special reason now to preach up for & recommend the Election of religious and undeisitcal Counsellors; and tho' now & then an unprincipled Character may get into the Council, he may be hunted down in a future election. It may be mutually beneficial by preserving a religious magistracy and a more catholic clergy.[13]

Stiles' successor, Timothy Dwight, took a more national perspective. Taking office in 1795, as Jeffersonianism was beginning to assume real power, he sought to organize an American equivalent of Europe's "Holy Alliance" against the French Revolution.[14] This organized counter-offensive was to be based on evangelical activity to draw the public back to the churches and away from "infidelity." By the 1820s, this enterprise had evolved an elaborate "evangelical machinery" of church-related, but lay controlled and supported voluntary organizations. At the base of the evangelical organizational system were religious revivals. Young men among the converted were given financial incentives (through loan-making education societies) to attend college. Many of those who became ministers (25 to 50% of college graduates) found pulpits through missionary societies, which placed the majority of their clients in frontier and inner-city churches. Graduates who did not become ministers often retained close ties to the evangelical movement, serving as teachers, editors of religious newspapers, managers of tract and Bible societies, and organizers of lyceums and temperance groups. Though the effort grew increasingly complex and increasingly tied to secular issues of reform and charity, its underlying impulse remained closely tied to the effort to forge an alternative to electoral power. As Lyman Beecher stated in 1820 in addressing the Charitable Society for the Education of Indigent Pious Young Men for the Ministry of the Gospel,

> the integrity of the Union demands special expertions to produce in the nation a more homogeneous character and bind us together with firmer bonds. . . . The prevalence of pious, intelligent, enterprising ministers through the nation, at the ratio of one to a thousand, would establish schools, and academies, and colleges, and habits, and institutions of homogeneous influence. These would produce a sameness of views, and feelings, and interests, which would lay the foundation of our empire upon a rock. Religion is the central attraction which must supply the deficiency of political affinity and interest.15

Gardiner Spring, a New York Presbyterian and a contemporary of Beecher's articulated the meta-political thrust of the evangelical effort more directly:

> Liberty without godliness, is but another name for anarchy or despotism. Let philosphers and statesmen argue as they please -- the religion of the gospel is the rock on which civil liberty rests. You have never known a people free without the Bible; with it, they cannot long be slaves.16

The Jeffersonians and their Jacksonian successors recognized the political threat posed by private voluntarism. Through the teens and into the 1820s, they mounted increasingly determined attacks on private associations. The most notable of these came in 1819, when the New Hampshire legislature, which had come under the control of the Jeffersonians, attempted to alter the charter of Dartmouth College. Daniel Webster's arguement in defense of the college's independence from the state forcefully articulated the Federalist's conception of voluntary associations as alternatives to state power -- as well as delineating the dire consequences of state interference in them:

> The case before the court is not of ordinary importance, nor of every-day occurance. It affects not this college only, but every college, and all the literary institutions in the country. They have flourished, hitherto, and have become in a high degree respectable and useful to the community. They have all a common principle of existence -- the inviolability of their charters. It will be dangerous, a most dangerous experiment, to hold these institutions subject to the rise and fall of popular parties, and the fluctuations of political opinions. If the franchise may at any time be taken away, or impaired, the property may also be taken away, or its use perverted. Benefactors will have no certainty of effecting the object of their bounty, and learned men will be deterred from devoting themselves to the service of such institutions, from the precarious title of their officers. Colleges and halls will be deserted by better spirits, and become a

> theater for the contention of politics. Party and faction will be cherished in the places consecrated to piety and learning. The consequences are neither remote nor possible only. They are certain and immediate.17

Webster succeeded in persuading the Supreme Court to uphold Dartmouth's charter. In so doing, he prompted the Court to fundamentally redefine the legal status of the corporation from being a creature of the state to being a private contract between individuals, immune from state interference.

The decision in the Dartmouth College Case not only extended constitutional protection to collective activity (the Bill of Rights had, up to this point, only been applied to the rights of individuals), but also sanctioned the existence of institutional alternatives to the state. In giving its blessing to privatization, the court expanded the significance of voluntary organizations from merely being a way for people with common interests to "get things done" to being a non-political basis for influencing the actions of the state. Tocqueville would remark on this in the 1820s:

> In America, the citizens who form the minority associate in order, first, to show their numerical strength and so to diminish the moral power of the majority; and, secondly, to stimulate competition and thus discover those arguements that are most fitted to act upon the majority; for they always entertain hopes of drawing over the majority to their own side, and then controlling the supreme power in its name.18

The Federalist elite, having been deprived of their ability to attract the loyalty of the electorate, turned to voluntary organizations to "diminish the moral power of the majority." Protected by the Dartmouth decision, they could use these organizations to shape public moral and perceptual agendas. Their Jeffersonian opponents were not unaware of this. In 1821, a Democratic pamphlet asserted that the goal of Federalist voluntarism was to place "all the colleges . . . under our control," enabling them to "establish our sentiments and influence, so that we can manage the civil government as we please."19

Contrary to Democratic fears, voluntary organizations did not lead to an overturn of the Republic. Because the first three decades of the nineteenth century were ones of tremendous economic growth, the social groups on whom the majority party had depended for support changed. A network of canals, turnpikes, and bridges tied previously isolated subsistance farmers to urban commercial centers. Technological innovation turned some craftsmen into industrialists and other into industrial workers. By the 1820s and 30s, America was fast becoming a nation of individuals.

Individuals, as nineteenth century Americans discovered, are powerless by themselves. They become socially, politically, and economically effective only through associating with others. As traditional forms of association based on kinship and community were eroded by the emerging market system, Americans chose new forms of organization based on voluntary assocation. Some of these were explicitly political (parties), some were economic (business corporations), some were metapolitical (charitable, educational, and cultural). Though all affected power relationships in society, each imparted different kinds of power to the groups comprising them. The influence of political parties was determined by their ability to mobilize electoral support for particular candidates and programs. They were, for that reason, the most democratic form of voluntary association. The influence of metapolitical associations, on the other hand, was the least subject to popular control: because they could hold endowment trusts, they could be financially independent of the public; because their governing boards could be self-perpetuating, they could act independently of public opinion; and because the Dartmouth College decision had redefined the nature of their charter rights, they were protected from legislative interference.

This apparently undemocratic aspect of voluntary organizations has been the target of majoritarian attack since the time of Jefferson. Although such attacks were successfully resisted until the mid-twentieth century, beginning in the 1940s, Congress, the courts, and regulatory bodies have sought increasingly to make voluntary organizations more accountable to the public. Particular animus has been directed against their political and metapolitical influence on public policy.

From a Constitutional perspective, are these efforts to limit the actions of voluntary assocations appropriate? While the text of the Constitution gives little direct guidance in this matter, since the Founding Fathers did not envision a "society of organizations." For that reason, we can only engage in informed speculation about how they would have viewed voluntary associations.

If there is a central concern in the Constitution, it is, as Hamilton noted in the opening essay of the Federalist Papers,

> whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.[20]

For the Founders, the alternative to government by "accident and force" was not pure democracy. This, because of its majoritarian character, was viewed as intrinsically oppressive. Rather, they proposed a system that allowed the majority to rule while, at the same time, protecting the rights of minorities from the oppressive power of the state. Although they viewed the primary defense against majoritarian coercion lying within the state itself, particularly in a system of representation which played a multiplicity of interests off against each other, they did not dismiss the importance of extra-governmental forms of authority and decisionmaking. In carefully distinguishing between the **state** and **society**, they observed a crucial distinction between public concerns and those which were "personal and private."[21]

Historically, voluntary organizations in the United States have acted in society, not in the state. They have focused on those "personal and private" dimensions of social life which involve issues of morality and perception. To say this is not to deny the ultimate impact of voluntary action on the state. Such an impact is unavoidable because voluntary associations were created to shape the values and the funds of information that affect political action.

It is easy to imagine politics without morality; it is impossible to envision morals without political implications. The force that has ennobled American politics since the 1790s, making it more than a mere struggle between great vested interests, has been the ability of citizens acting **in society** to define the issues that ultimately shape state policy. To pretend that private voluntary associations have not served this purpose is willful ignorance. To assert that their exercising this function is contrary to the Constitution is naive. And for the state, acting under the Constitution, to forbid them from acting in this capacity is a dangerous usurpation.

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17. Quoted in Richard Hofstadter and Wilson Smith, eds, *American Higher Education: A Documentary History* (New York: Alfred A. Knopf, 1965), I: 211.

18. Tocqueville, *op. cit.*, I: 105.

19. Dr. Burton, *To the Public: Priestcraft Exposed and Primitive Christianity Defined: A Religious Work* (Lockport, New York, 1828).

20. Alexander Hamilton, "No. 1," in Rossiter, ed., *op. cit.*, p. 33.

21. In *Federalist #1*, Hamilton makes the distinction between public and private in a particularly interesting way. In discussing why the Constitution should be ratified, he states that "my arguements will be open to all and may be judged by

all." But "my motives must remain in the depository of my own breast." Put another way, reasoned arguement is the stuff of political life; motives and values, the province of the metapolitical.

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The Evolution of the Law of Nonprofit Organizations

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INTRODUCTION

The law of nonprofit organizations is currently in a state of flux. In another decade or two the law may look considerably different than it does now, with substantial consequences for the size and composition of the nonprofit sector. To gain some perspective on these developments, I'll try here to offer a brief thematic overview of the evolution of the law of nonprofits.

For convenience, I'll divide the law of nonprofits into two broad areas. The first is organizational law. Since most nonprofits of any significance are incorporated, this is essentially the law of nonprofit corporations. The second is tax and regulatory law, a category into which I shall sweep all aspects of the law of nonprofits other than corporation law, including such diverse fields as bankruptcy, torts, and postal rates.

Because time is limited, I'll paint with broad strokes, neglecting many important qualifications and countervailing themes.

EARLY DEVELOPMENTS

Nonprofit organizations have a long lineage in Anglo-American law. Indeed, in the realm of corporation law, nonprofit organizations have a far more ancient history than do for-profit firms. Nonprofit corporations, in the form of monasteries, universities, schools, guilds, and hospitals, have been commonplace for nearly a millennium. Joint stock companies, on the other hand, only emerged at the beginning of the seventeenth century.

Prior to the nineteenth century, corporation law in general, and nonprofit corporation law in particular, was relatively ad hoc. Corporate charters were granted individually by the legislature, and tailored to the particular organization in question. Taxation and regulation were also often dealt with on an individual basis during this period. Tax exemption, for example, was sometimes granted to a nonprofit organization through its original legislative charter. One consequence of this particularistic approach to the law was that the boundaries between different types of organizations were left unclear; nonprofit, for-profit, cooperative, and even public corporations blurred into one another.

The nineteenth century saw a remarkable explosion in the number of private organizations in society, both nonprofit and for-profit. Consequently, it was no longer feasible to incorporate or regulate organizations by individual legislative acts. Furthermore, it became important to have standard organizational forms so that individuals could easily determine the type of organization with which they were dealing. As a result, there began a process of codifying and rationalizing the law governing those organizations.

A CENTURY OF CONSOLIDATION: 1850-1950

The major step in this process of rationalization and codification occurred toward the middle of the nineteenth century, when most American states adopted general statutes that provided separately for the incorporation of three different types of corporations: business corporations, nonprofit corporations, and cooperative corporations. These statutes permitted incorporation as a matter of right, without special act of the legislature, so long as the provisions of the statutes had been met.

The adoption of these statutes marked the beginning of what we might term a "century of consolidation" for the law of nonprofit organizations, lasting roughly from 1850 to 1950. During that period the organizational, tax, and regulatory law of nonprofits achieved clear definition, and evolved more or less as a unitary whole.

Organizational Law

The new nonprofit corporation statutes were not only the first but also the most essential element in this process. For the first time they gave nonprofit organizations clear legal definition as a class. Moreover, they gave those organizations a relatively unitary legal identity. Although the statutes were highly flexible, permitting various adaptations of the basic form, they nominally provided for only a single type of nonprofit corporation.

To be sure, as time went on the courts, in their interpretation of the statutes, came in effect to recognize and treat differently one particular class of nonprofits. This class consists of those organizations that we might loosely refer to as "clubs." In essence, they are membership organizations that have no important activities beyond providing private services to their members. Country clubs and automobile clubs are obvious examples. For such organizations, the courts permitted a partial breach in the nondistribution constraint that is the essential defining feature of a nonprofit organization, and which prohibits the net earnings of the firm from being distributed to any controlling person, such as an officer, director, or member. In particular, the courts sometimes permitted clubs, upon their final dissolution, to distribute their accumulated net assets to their members -- an action denied to other nonprofits, such as charities.

This latter exception, however, was not terribly problematic. It might well be viewed simply as a pragmatic accommodation to the fact that clubs came to be organized under the nonprofit corporation statutes more or less by historical accident. It would probably have been more appropriate to form them under the cooperative corporation statutes, or to create a separate membership corporation statute for them, rather than creating special loopholes to accommodate them under the nonprofit corporation statutes. Indeed, I believe that this is still the case today.

The rationalization and codification of a unitary law of nonprofit corporations reached its peak with the promulgation in 1954 of the Model Nonprofit Corporation Act, a joint product of the American Law Institute and the American Bar Association. That act was quickly adopted in a majority of the states, and remains today the prevailing law in most jurisdictions.

Tax and Regulatory Law

During the period 1850-1950 nonprofits came to be distinguished clearly from business corporations not only under the organizational law, but also under tax and regulatory law. That hundred-year period saw the enactment of a variety of new taxes and regulatory measures that applied to business corporations. Nonprofit corporations were, however, exempted from, or given specially privileged treatment under, nearly all of these measures. Thus, nonprofits were exempted from corporate income taxes and sales taxes, and the traditional practice of exempting most nonprofits from property taxes was continued and generalized. During this period nonprofits were also exempted from federal statutes governing involuntary bankruptcy, labor law, securities regulation, Social Security, unemployment insurance, and unfair trade practices, and were given highly favorable treatment under the antitrust laws. In fact, legal favoritism toward nonprofits even went so far as the creation, toward the end of the nineteenth century, of a doctrine, previously unknown to the common law, of "charitable immunity" from tort liability.

To be sure, most of the statutes in question did not by their terms provide special treatment for all nonprofits. Rather, the language of the exceptions generally pointed to some vaguely defined subclass of nonprofits. For example, the bankruptcy statute exempted corporations that are not "moneyed, business, or commercial" corporations. Nevertheless, in practice the statutes were generally interpreted to extend special treatment to nearly all organizations incorporated as nonprofits. This is true, in particular, of the federal corporate income tax. Although the tax code confined exemption to a number of specifically described categories of nonprofits, those categories were interpreted broadly enough to encompass nearly all nonprofits of any financial significance.

Given the nature of nonprofit organizations during this period, there was some sense to these developments. Aside from clubs, most nonprofits were donatively-supported organizations providing services that had the character of a public good for at least a limited segment of the public. They could therefore be treated as a unitary class, and they could be easily distinguished, in terms of both their finances and the services they provided, from the business firms for which most of the legislation in question was primarily designed.

A NEW PERIOD OF CONFUSION AND FRAGMENTATION

By 1950, however, the nonprofit sector had begun to have a new look. It was coming to be populated with large numbers of "commercial" nonprofits -- that is, nonprofits that are neither donatively supported on the one hand, nor clubs on the other, but rather have the sale of personal services as their primary activity, and derive nearly all of their income from the prices charged for those services.

In some cases these new commercial nonprofits evolved from nonprofits that were formerly donative. This was the case, for example, with hospitals, which through the end of the nineteenth century were almost entirely philanthropic institutions providing sick care for the poor, but which became in this century, through a series of technological and financial developments that culminated with the enactment of Medicare and Medicaid in 1965, largely commercial nonprofits. In other cases these new commercial nonprofits appeared in service industries, such as nursing homes, day care centers, home health care agencies, and health maintenance organizations, that had scarcely existed prior to the Second World War but have grown rapidly in recent decades.

At the same time, it became increasingly common for traditional donative nonprofits to expand actively into ancillary profit-making activities in search of extra funds. Typical examples of such conduct are museum gift shops, leasing of computer time by universities, and vacation travel services provided by nonprofits of all types.

There are two possible explanations for this development. The first is that the new commercial nonprofits, and the commercial activities of donative nonprofits, are actually efficient activities for the nonprofits involved to perform. In the case of the commercial nonprofits, this could be because the services they provide are characterized by an asymmetry of information between producer and consumer, with the consequence that some consumers are better off dealing only with firms that are subject to fiduciary constraints. In the case of commercial activities of donative nonprofits, it could be because real economies result from producing these services jointly with the primary donatively-supported services of the nonprofit.

The second, alternative explanation is that these commercial services are provided by nonprofits simply because they benefit from the exemptions and subsidies described above, without which the nonprofits could not compete successfully with for-profit firms.

There has been considerable debate as to how much weight to give each of these two explanations. It can fairly be said that the answer is not yet clear.

The response to the increasing commercialization of the nonprofit sector, both in the organizational law and in the tax and regulatory law, has been to abandon the unitary treatment that nonprofits received in the past, and to begin to subcategorize nonprofits for purposes of applying to them different legal standards. Moreover, in the tax and regulatory law there began a broad retreat from the consistently favorable treatment that nonprofits had come to enjoy.

Organizational Law

Turning first to organizational law, we can see that the breakup of the old order was already presaged by the 1954 Model Nonprofit Corporation Act. In spite of the apparent success of that Act in securing broad acceptance among the states, it showed serious signs of instability. It clearly lacked any guiding theory of the functions appropriately served by nonprofit organizations. In essence, the authors of the Act simply took the Model Business Corporation Act and deleted from it all provisions -- such as those dealing with the issuance of stock -- that seemed inappropriate for nonprofits. The result was a rather empty enactment. The statute is muddled concerning permissible purposes for incorporation, vague and excessively permissive about distributions of net assets to members on dissolution, and completely silent about the critical issue of directors' and officers' fiduciary obligations.

It is therefore not surprising that the Model Nonprofit Corporation Act was only a few years old when the nation's two most populous states, New York and California, abandoned it entirely in favor of newly drafted statutes of their own. Both states' statutes, moreover, rejected the unitary approach of the Model Act and created different categories of nonprofit corporations with different rights and responsibilities.

The first to act was New York, which enacted its new statute in 1970. That statute created three different categories of nonprofits. The first provided, in essence, for clubs, which were treated permissively in terms of their fiduciary obligations. The second provided for charities, which were subjected to relatively strict fiduciary obligations. And the third provided, ambiguously, for nonprofits pursuing a "business purpose to achieve a lawful public or quasi-public objective." It is unclear precisely what types of organizations were intended to be covered by the latter category; the authors of the statute themselves were apparently confused on the matter. Evidently, however, it represented an awkward effort to deal with some of the new commercial nonprofits. It imposed fiduciary obligations intermediate between those imposed on clubs and charities, apparently reflecting the authors' conclusion that since commercial nonprofits performed activities rather like those performed by for-profit firms, they should not be held to markedly higher standards when it came to profit-taking.

California followed in 1980 with enactment of its own statute, which was completely different from both the Model Act and the New York statute. Like the New York statute, the California nonprofit corporation statute provided for three different types of nonprofits. The categories were, however, defined differently from those created by New York.

To begin with, California, for the first time in an American jurisdiction, provided separately for religious nonprofits, which were subjected to much less strict standards than their secular counterparts. Secular nonprofits were then divided into two categories, in constrast to the three employed in New York. These two categories are denominated, respectively, "public benefit" and "mutual benefit" nonprofits. Although the statute is otherwise a model of careful draftsmanship, it is remarkably unclear as to the types of organizations that are to fall within its two categories. It is fairly clear that, as the names of the categories imply, traditional charities are to be governed under the "public benefit" category, while clubs are to be governed by the "mutual benefit" category. In keeping with this intent, mutual benefit nonprofits are subject to weaker standards on self-dealing and distribution of profits than are public benefit nonprofits.

The mutual benefit category, however, is defined to accommodate a much broader group of nonprofits than simply clubs. By its terms, its provisions can be used by a broad range of commercial nonprofits that are not membership organizations at all, and it seems to have been intended that at least some commercial nonprofits would be governed the relatively lax standards applied to mutual benefit nonprofits. Again, as in New York, the theory seems to be that many commercial nonprofits look much like ordinary businesses, and thus should be governed by a corporation law that is not much different than a business corporation statute -- and in particular should be subjected to fiduciary standards that are not notably stricter than those applied to profit-seeking firms.

In short, the California statute, like the New York statute, reflects an effort to come to grips with the notion that clubs and the new commercial nonprofits are somehow different from the traditional charities that formerly constituted the bulk of the nonprofit sector. Both statutes have responded by creating multiple categories of nonprofits subject to different degrees of rigor in the fiduciary standards imposed on the organizations. But neither statute reflects a very clear notion of just which nonprofits should go in which categories.

This fractioning of nonprofit corporation law, and the confusion surrounding it, is moreover about to spread. A new Model Nonprofit Corporation Act is currently being drafted, and preliminary indications are that it will closely imitate the California Act.

Tax and Regulatory Law

Turning next to tax and regulatory law, we see changes in the period beginning about 1950, and continuing into the present, that are even more dramatic than those in the organizational law. The former pattern of more or less automatically granting exemption or special treatment to nonprofits under tax and regulatory legislation of all types has been sharply reversed, and the privileges that nonprofits previously had vis-a-vis business firms have been progressively curtailed. Moreover, the pattern of fragmentation seen in the nonprofit corporation law has also appeared in the tax and regulatory law, which increasingly deals differently with different types of nonprofits, or even with different activities carried on by a single nonprofit. As with the corporation law, these changes have evidently been stimulated in large part by the emergence of substantial numbers of commercial nonprofits, and by the expanding commercial activities of traditional donative nonprofits.

This broad retreat from favoritism toward nonprofits has taken three forms. First, in some areas special treatment or exemption has been withdrawn completely from nonprofits of all types. One of the first examples of this was the abolition of the doctrine of charitable immunity in tort, a change that was initiated by the courts in the 1940s and that has now become nearly universal. Labor law has seen a similar turnaround. In a series of cases between 1970 and 1976, the National Labor Relations Board repudiated the long-standing "worthy cause" exemption that had shielded all nonprofits from federal labor law, and adopted a policy of treating nonprofit firms on the same terms as ordinary business corporations. Similarly, whereas nonprofit firms formerly had the right to decline to pay Social Security taxes, they now must participate on the same mandatory basis as other firms. Unemployment insurance taxes, from which nonprofits were formerly exempt, are now levied on all nonprofit firms. And antitrust law, from which the courts had provided a partial exemption for nonprofits, is now aggressively applied to them with little hesitation.

Second, tax and regulatory law has begun to distinguish among different activities carried on by individual nonprofits. The first conspicuous example of this was the passage of the unrelated business income tax in 1950, a provision that effectively withdraws corporate income tax exemption from the commercial activities of all nonprofits, including charities. Efforts today to withdraw special postal rates from the commercial activities of nonprofits provide another example.

Third, tax and regulatory law has begun to differentiate among types of nonprofit organizations, denying special treatment to certain classes. Here the most striking example is the withdrawal of tax exemption from life and health insurance companies in the Tax Reform Act of 1986. Formerly, as we have noted, virtually all nonprofits, including even most clubs, had been exempt from the corporate income tax with respect to their principal activities. Although there were small classes of nonprofits that were denied exemption, such as automobile clubs, they seemed to be flukes and special cases. The 1986 Act changes this, denying exemption to two very important classes of nonprofits. Moreover, the nonprofits involved were ones that had formerly been exempted, not under the peripheral exemption provisions of Section 510(c) of the Code that cover such entities as cemetery associations and social clubs, but rather were organizations that had formerly been exempted as charitable and educational organizations under Section 501(c)(3), the innermost circle of exempt organizations.

There is much agitation today about the proper treatment of the unrelated business activites of nonprofits. The controversy has focussed particularly on the unrelated business income tax, but has also extended to postal rates and other possible sources of subsidy. The small business community has argued for less preferential treatment of nonprofits, while the nonprofit sector has defended its priviliges. My own opinion is that this debate is essentially a sideshow. The really important issue facing the nonprofit sector is the future treatment, not of nonprofits' unrelated business activites, but rather of ~~their~~ primary or "related" activities. In particular, this is a pressing issue for the large new classes of commercial nonprofits. Congress has just withdrawn tax exemption from life and health insurance companies on the grounds that they are providing services that are similar to those provided by for-profit firms, and that exemption is a subsidy that creates an unfair and inefficient bias in the choice of oganizational form. How, then, does one defend tax exemption for nonprofit hospitals, nursing homes, day care centers, health maintenance organizations, home health care agencies, publishers, and all the other types of nonprofit firms that provide services that are similar to, and in competition with, business firms? If a satisfactory answer to this question cannot be given -- and I believe that an answer is not easy to find -- then these organizations may ultimately have their tax exemption and other privileges withdrawn just as TIAA/CREF and Blue Cross/Blue Shield have.

Commercial nonprofits today probably account for between half and two-thirds of the entire nonprofit sector as measured by GNP or employment. If current legal trends continue, these organizations may ultimately be denied tax exemption and all of the other advantages that once privileged them vis-a-vis business firms. If in fact these privileges are important to the survival of commercial nonprofits, the result could be a severe shrinkage in the overall size of the nonprofit sector. Whether this would be a good thing or not from society's point of view depends on the functions served by the commercial nonprofits. If they offer no services that proprietary firms cannot provide just as well, and exist simply as opportunistic responses to the various subsidies made available to them, then it will be a good thing. If the contrary is true, it will be unfortunate. Our present state of knowledge about the nonprofit sector does not permit us to say for certain one way or the other. Researchers such as those who are here today can help us continue to search for the answers.

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EFFECTIVE MANAGERS OF NONPROFIT ORGANIZATIONS*

by

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and
Richard D. Heimovics

Prepared for the INDEPENDENT SECTOR
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INTRODUCTION

In this paper we report some of the most important results of a study of chief executives of nonprofit organizations. The purpose of the research was to investigate what skills and abilities distinguished those chief executives judged to be highly effective from those not so regarded. As we noted in a 1986 INDEPENDENT SECTOR Spring Research Forum paper, despite the great popular interest in managerial effectiveness, the scholarly and scientific literature provides few well-established findings about the skills and abilities of highly effective executives.[1] Research on managerial effectiveness has been stymied by two major difficulties: the theoretical conceptualization and measurement of effectiveness, and the "attribution trap."

There is a vast and ever-expanding literature on effectiveness, especially organizational effectiveness.[2] The conceptualization of effectiveness will substantially depend on one's theoretical perspective on organizations. Pfeffer[3], in a review of recent trends in organization theory, distinguishes six general theoretical perspectives. The perspectives reflect differences in the action dimension and level of analysis dimension. Pfeffer argues that all theories of organization explicitly or implicitly adopt one of three perspectives on action: (1) that action or behavior is intendedly rational, goal-directed and purposive; (2) action is externally or situationally determined; and (3) action is almost random and its meaning is socially constructed in an ongoing and open-ended process. The level of analysis dimension is either micro (i.e. individuals, groups, sub-units) or macro (the organization).

At either the micro or macro level the purposive-rational perspective on action is consistent with a goal attainment approach to effectiveness. However, a long line of criticism of this approach has noted that goals are often stated in vague and, thus, unmeasurable terms. If goals are stated in specific, measurable terms, the issue of multiple goals and their priority and likely inconsistency arises. At the organizational level of analysis many have noted that the idea of organizational goals is a reification. An organization is a system of role (and power and dependence) relationships. Only individuals can, it is argued, meaningfully be said to have goals. Even if we accept the term "organizational goal" as a shorthand for a summation of (or ascendancy of some) individual goals, whose goals are included, how are differences in individual, sub-unit or interest group goals resolved? For all these reasons and others, many organizational researchers and theorists[4] have developed more complex models of effectiveness, such as system resource, internal process and constituency satisfaction. Such models are also consistent with the purposive-rational perspective.

The external determination perspective on action is consistent with either a selection or adaptation approach to effectiveness. Population ecology theory[5] essentially defines effective organizations as those forms that are enviromentally selected. Selection is seen as occurring because some forms happen to fit environmental conditions, not because of decisions and actions taken by an organization or its members. Resource dependence theory[6], though emphasizing that much organizational action is determined by environmental conditions, does encompass the possibility of intentional adaptation to environmental conditions. Thus, effectiveness can be seen as survival-enhancing adaptation.

There are several distinct variations in the social constructionist perspective on action. Despite important differences in level of analysis, issues considered and theoretical terms,[7] all seem to treat effectiveness as just another (or part of) "organizational reality" created by people as they attribute meaning to past and on-going actions. Thus, effectiveness is not a real property of an organization, but a label that people, with varying degrees of agreement and for varying "reasons," apply to people and organizations.

In effect the organization theory literature and the organizational effectiveness literature tells us that effectiveness is many things and it is difficult or inappropriate to try to find one way of comparing the effectiveness of different organizations. Some of it tells us not to look for effectiveness but to look at how and by whom effectiveness judgements are made. While the effectiveness of individual managers must, can be, and has been conceived and measured independently of organizational effectiveness, ultimately it is illogical to try to say something about managerial effectiveness (unless we define managerial success only as rate of salary increase or promotions) if we do not have some idea of what the manager's work contributes to organizational effectiveness. We believe this conclusion is especially appropriate at the chief executive level.

In this project we've assumed that effectiveness judgments are made and that such judgments have consequences. We also assume that nonprofit organizations are greatly dependent on their environments for many resources, including not only money, material, personnel, and clients, but also legitimacy. We also assume that such organizations, through their agents, varyingly learn about and attempt to adapt to and/or influence the contingencies in their environments. In short, our assumptions are based in a resource dependence theory that conceives a chief executive's role as including symbolic, responsive and discretionary elements.[8]

A resource dependence perspective, with its emphasis on external influences, immediately draws attention to the role and function of boards of directors in nonprofit organizations. Middleton's[9] careful review of the literature suggests that boards might be best understood as both part of the organization and part of the environment. Research[10] has established that the social composition and functional emphasis of nonprofit boards varies with environmental differences. Differences in social composition and functioning, however, do not automatically occur. We believe that nonprofit chief executives may play a substantial part in the process of developing a board that "fits" with and can function to mediate an organization's environment.

If the scholarly literature on effectiveness has not greatly contributed to the effort to identify the skills and abilities of highly effective managers, more popular approaches often fall into the "attribution trap." A long line of social psychological research has confirmed that observers tend to attribute the cause of other's actions to some underlying personality characteristic or disposition.[11] Thus, in describing effective executives we are likely to use such dispositional terms as "flexible," "decisive," "risk-taker" or "sensitive." What do these, or similar, terms mean? How can we tell when someone has such qualities? Even if we could reliably measure differences in such qualities, how and in what circumstances do they affect the behaviors of managers? Without attention to behavior and careful use of comparison groups attempts to develop lists of characteristics of effective managers seem likely to merely affirm conventional wisdom. Further, focusing attention only on dispositional characteristics seems likely to underplay the importance of chief executive behaviors in relation to environmental contingencies.

RESEARCH DESIGN

Recognizing the issues raised by the effectiveness literature and the attribution trap, what research design and procedures are available to appropriately investigate the skills and abilities of effective managers? Recently the "competency" approach has been utilized in studies in both the private (business) and public (government) sectors.[12] The competency approach is carried out as follows. Based on performance appraisals and/or nominations by superiors some subset of managers in an organization is identified as more effective. Interviews using the critical incident technique[13] are then conducted. During the interview the manager is asked to describe one (or more) successful events and what he or she did during the event. (In some applications of technique the manager is also asked to describe unsuccessful incidents.) The interviews are then read and judgments or ratings made about whether certain behaviors were exhibited. In well-done applications of the technique, interviews with both the sample of effective managers and a comparison sample should be judged by two or more judges who are unaware of the sample from which a particular manager comes. Further, the behavioral skills which are being judged or rated should achieve acceptable levels of inter-rater reliability.

This study used the critical incident technique. Initially sixty chief executives of nonprofit organizations were asked to participate. The chief executives were selected in two ways. One-half were nominated by knowledgeable observers of the community's nonprofit sector. We asked a set of people in the Kansas City, Missouri metropolitan area who occupy positions where judgments about executive effectiveness are required (foundation and United Way leaders, heads of technical assistance and coalition organizations) to nominate those nonprofit chief executives they considered highly effective. We asked our nominators not to include chief executives from hospitals or colleges/universities. We believe these organizations typically occupy much different positions in a metropolitan ecology of organizations than do most other nonprofit organizations.[14] Twelve people, working independently, selected a total of 90 chief executives as highly effective. When an executive received nomination from at least two people that person became part of the highly effective sample. To randomly select a comparison sample we assembled lists of chief executives from information provided by referral centers and consortia of nonprofit organizations. After eliminating those who received one nomination, we randomly selected a comparison group. An initial telephone conversation permitted us to determine if the comparison chief executives had been head of their current organization for at least eighteen months. Those who did not meet this length of time in position requirement were excluded on the assumption that they had not had an opportunity to become visible to our nominators. This occurred in three instances. Replacements were randomly selected.[15]

Each executive who agreed to participate was sent a letter explaining the project and suggesting how he or she might prepare for the interview. Chief executives, of course, were unaware of which sample they were a part. Each executive was interviewed by an interviewer who was also unaware of which sample the executive was a part.[16] Each interview began with the executive describing an event he or she considered especially successful. Our interviewers tried especially to elicit as much detail about the executive's behavior as possible, including who was involved and who did what and when. The executive was next asked to describe an unsuccessful event in the same way. The transcribed interviews were then read by two trained raters or judges, working independently. Our raters were unaware that we had two samples.[17] At the close of the interview each chief executive was left a lengthy questionnaire to complete and return. The questionnaire asked for data on (1) a variety of personal items, including education, job history, management training, on (2) several organizational characteristics (e.g. number of full-time equivalent employees, board size, existence of an executive committee and accreditation status), and on (3) revenue figures over the last three years.

Of the original 60 chief executives selected for the study, 7 were unwilling to participate. Interviews with three were too abbreviated to be appropriate for this part of the study. Thus, we have interviews with 50 chief executives, 24 from the comparison sample and 26 from the reputationally effective sample. Since each chief executive was asked to describe two events (one successful and one unsuccessful),we should have 100 events. However, one chief executive refused to speak about an unsuccessful event.

RESULTS

A. Finding Managerial Competencies: Inter-Rater Reliability

The critical incident interviews provide the raw data for assessing behaviors, but they do not provide the framework or series of standards for rating the behaviors described in the interviews. Selecting the items to be rated is obviously an important step in the search for managerial competencies. Potential competencies that are not included in the items to be rated cannot be found. Previous applications of critical incident technique in competencies research has generally adopted an ad hoc or inductive approach. After reading several transcribed interviews the investigators develop a set of items that they saw in the set of interviews.[18] In our initial attempt to develop a rating scheme we included some of the items that Boyatzis and Flanders and Utterback had found.[19] Specifically we included as items: the chief executive demonstrated "broad perspective," was "articulate," had a "clear goal," demonstrated "specialized technical competence," and was enhancing "organizational flexibility." We also initially included five items drawn from the recent work of Huff.[20] Based upon a "naturalistic inquiry" of the management of three school systems, Huff developed a set of prescriptions for effective management. We found these prescriptions to be very insightful and, though they are phrased at a more abstract level than some behavioral guidelines, decided to examine whether our judges could reliably discriminate their absence or presence. The items we incorporated from Huff's work were: the chief executive "maintained an informal information network," "engaged in 'what if' thinking," "improvised in the garbage can," "developed a limited agenda," and "laid a bread crumb trail." Obviously, these prescriptive guides are highly metaphorical. We asked our raters to read and discuss Huff's work prior to undertaking their ratings.

In addition to items from Boyatzis, Flanders and Utterback, and Huff, we added some items we believed might be especially appropriate for nonprofit organizations. These items were "the board was described by the CEO as actively involved in board policy matters," "CEO attended to matters that mostly involved people and actions external to the day-to-day administration of the organization," "CEO was seeking to decentralize control of the organization," and "board described by the CEO as actively involved in day-to-day internal matters of the organization." The last three of these items we also believe partially reflect two of the dimensions of the competing values framework developed by Quinn and his colleagues.[21] None of the items (with the exception of the three consistent with the competing values model) we had so far included was substantially grounded in any well-established theoretical tradition.

What theoretical tradition provides some basis for conceptualizing and measuring possible differences in chief executive behavior? While there are undoubtedly others, one especially appropriate theoretical tradition is that of leadership. Though the volunteer board may be called the "leaders" and frequently engage in leadership, we believe that the chief executives of staffed nonprofit organizations are likely to be expected to do whatever it is leaders do.[22] The study of leadership has many of the same complexities as the study of effectiveness - that leadership is not an unitary phenomenon and that leadership behaviors are embedded in many contingencies, has led to the development of many alternative theories, and the familiar call for abandoning leadership as a scientific concept.[23] Fortunately, as Yukl[24] has clearly summarized there are a number of well-established, reliable and valid behavioral elements in the leadership literature. Indeed, fortuitously for our purposes Quinn[25] has recently developed a set of leadership behavioral items derived from Yukl's review. We have used those eight items, in slightly modified form in some instances. Given the theoretical importance of the board of directors for nonprofit organizations, we also elaborated the items by expliciting distinguishing between behavior directed toward the paid staff and toward the board (the items are listed in Table 1 as items 1-16).

Thus, we began with a set of thirty items on which our judges would assess the behavior of the chief executives as revealed in the critical incident interviews. We took a random sample of 10 chief executives (and 20 incidents) to check the inter-rater reliabilities on the 30 items. The very low reliabilities of the Huff items and of those items dealing with broad perspective and articulateness by the CEO led us to drop those items from the final set. That the Huff items had low reliability is not surprising since they are very abstract and metaphorical. The other two (broad perspective and articulate) are highly dispositional and we were not surprised that our raters saw them much differently. The final rating form contained 23 items, each of which was rated as either "0" - "behavior not exhibited, either because the opposite behavior was evident or because there is not enough information to tell," or "1" - "Behavior exhibited."[26] After the 99 incidents had each been independently rated by our two judges, we computed inter-rater reliabilities for each item, which are reported in Table 1. The statistic we used was K (kappa), developed by Cohen[27] specifically to assess the extent to which independent judges or raters agree on the assignment of categories. In contrast to chi square or the contingency coefficient, K is corrected for chance agreement. Kappa is interpreted as follows. A zero value indicates that observer agreement is the same as chance agreement. Positive values indicate more observer agreement than chance, while negative values show less observer agreement than chance. The upper limit is +1 (i.e., perfect agreement beyond chance) but only when the marginals are equal. When the marginals are unequal, the upper limit is less than +1, making it inappropriate to interpret K as percent agreement beyond chance. According to Landis and Koch,[28] K values of .75 and greater indicate excellent agreement, values from .40 to .75 good agreement, and values less than .4 relatively low agreement. As Table 1 shows, nearly all the leadership items obtained acceptable levels of inter-rater reliability (only three are below .4). Of the seven other items, four are below the .4 value of K and three are especially low.

TABLE 1

Behavioral Rating Items and Inter-Rater Reliability

Items Derived from Quinn, following Yukl

Item		Kappa
1.	Facilitates Interaction in Staff Relationships	.433
2.	Facilitates Interaction in Board Relationships	.413
3.	Shows Consideration and Respect toward Staff Members	.476
4.	Shows Consideration and Respect toward Board Members	.506
5.	Envisions Chance and Innovation for the Organization in Work with Staff	.494
6.	Envisions Change and Innovation in Work with the Board	.569
7.	Acquires Resources Independent of the Board's Effort - through own or staff effort	.459
8.	Acquires Resources through the Board	.519
9.	Emphasizes Accomplishments and Productivity of the Staff	.474
10.	Emphasizes Board Accomplishments and Productivity	.502
11.	Provides Structure for the Staff	.575
12.	Provides Structure for the Board	.303
13.	Maintains Structure for the Staff	.280
14.	Maintains Structure for the Board	.350
15.	Provides Information to the Staff	.656
16.	Provides Information to the Board	.498

Other Items

17. The board or members of the board was/were described by the CEO as actively involved in broad policy matters. .439

18 In this event the CEO attended to matters that mostly involved people and actions external to the day-to-day administration of the organization .242

19. The CEO was seeking to decentralize control of the organization providing greater power, authority and responsibility to the staff .486

20. The CEO demonstrated a highly specialized administrative or technical competence .332

21. The CEO knew the outcome he/she wished to achieve and was clear about the goal (regardless of whether it was achieved) .177

22. In this event the CEO was engaged in attempting to enhance the organization's flexibility, its capability to adapt more readily to a changing environment .190

23. The board or members of the board was/were described by the CEO as actively involved in day-to-day internal matters of administration or management, as distinguished from policy issues .471

The results of the inter-rater reliabilities convince us that the critical incident technique can be used to reliably measure whether certain managerial behaviors are present in reports of these events. The technique appears to be more reliable when applied to behaviors rather than dispositions. It also appears to be more useful when applied to items derived from well-established theoretical/empirical categories than ad hoc categories. The results of the inter-rater reliability tests indicate the extent to which two independent judges see the events as revealing the same behaviors. These results do not test whether the more effective sample of chief executives exhibited more or less of these behaviors than the comparison sample.

B. Differences Between More Effective and Comparison Chief Executives: Relations with the Board

Before describing the results of the substantive tests of whether the more effective chief executives differ in behavior from the comparison group of chief executives, it is necessary to describe two ways of analyzing the behavior ratings data. Our judges frequently agreed about the absence or presence of a behavior, but not always. In cases where they agree only one score is possible, either a "0" where both have rated the item as absent or a "1" when both rated the item as present. In cases on which they disagreed (one rated the item for a given executive in a given event "0" and the other judge rated the item "1"), there are two ways of computing a single score. One way is to take the mean (.5) of the two ratings. We believe there is a good argument for this way. Since these judges frequently agree (much beyond chance on most items), if one sees the behavior as present, there is probably more of that behavior in evidence than if they both scored an item as absent for a given event. A more cautious or conservative approach is to assign "0" to those cases on which our judges disagree. As it turns out, the results are virtually the same for each way of resolving disagreement.

Our analytical strategy for investigating possible differences between the more effective sample of chief executives and the comparison sample is very simple. First, for both the mean and conservative methods of combining our judges' ratings, we computed the average number of items rated "1" for each event and compared the averages for the two samples. For the mean method of combining ratings, the more effective sample averaged 9.2 behaviors per event and the comparison sample averaged 7.4 behaviors per event ($t = 2.47$, 2-tailed $p=.015$). Using the conservative approach to combining the ratings, the more effective sample averaged 7 behaviors per event and the comparison sample 5.3 ($t=2.2$, 2-tailed $p=.03$) If we split out the successful and unsuccessful events, the same pattern holds - the more effective sample averages more skills per event in both successful and unsuccessful events, for both the mean and conservative ratings data - though at higher, less significant levels of probability. Of course, these tests are highly aggregated and they may be misleading if they are mostly based on the items with lower reliabilities.

Having determined that the two samples differ on average number of behaviors exhibited in the critical events, our next step was to consider each behavioral item separately and to consider successful events independently of unsuccessful ones. For both successful and unsuccessful events we developed a table for each rating item cross-tabulating the score on the item by CEO sample. For example, Table 2, panel A is the table for the item "facilitates interaction with the board" in successful events, using mean rating data. Table 2, panel B uses conservative rating data.

TABLE 2

A. Facilitates Interaction with Board (Mean Data) By CEO Sample - Successful Events

		CEO Sample		
		Comparison	More Effective	
Score on Facilitates Interaction with Board	0	13	6	19
	.5	8	7	15
	1.0	3	13	16
		24	26	50

$x^2 = 8.8$, $p = .012$
Eta, $r = .41$, $p = .0015$

B. Facilitates Interaction with Board (Conservative Data) By CEO Sample - Successful Events

		CEO Sample		
		Comparison	More Effective	
Score on Facilitates Interaction with Board	0	21	13	34
	1	3	13	16
		24	26	50

$X^2 = 6.4$, $p = .011$
Eta, $r = 40$, $p = .0019$

Regardless of the way in which ratings scores are computed, both tables show that the chief executives considered more effective exhibit the behavior of facilitating interaction in relation to the board more frequently. The chi square statistic (which tests whether two nominal variables are independent) for each table is statistically significant (at customary levels). We also computed eta (a statistic that measures association when the independent variable is nominal and the dependent variable interval) and r, the correlation coefficient (appropriate for two interval variables). We believe the ratings score can be appropriately considered an interval variable, especially in the conservative approach where it is a "dummy" variable. Given the comparison sample is coded "0" and the more effective "1" eta and r are equivalent. While some might prefer chi square as the appropriate test for this data (we will present those values and significance levels in subsequent tests), we believe the data meet the criteria of measurement for using eta or r, and r has the advantage of indicating direction of relationship. In all tests, including those that did not reach customary levels of significance, r was in the expected direction, positive, indicating that the more effective sample exhibited the behavior more frequently. Table 3 lists the behavioral items by kind of event on which the more effective sample significantly differed from the comparison sample and includes the statistical values and significance levels for both the mean and conservative methods of computing the ratings scores. Of the twelve significant results, only four become marginally significant using the conservative approach to the rating data (and the conservative two-tailed significance levels for r).

TABLE 3

Items, By Kind of Event, which Distinguish More Effective

From Comparison Chief Executives

Successful Event

Item	Mean Data[1]	Conservative Data[1]
2. Facilitates Interation with Board	x^2=8.8,p=.011 r=.41, p=.003	x^2=6.4,p=.011 r =.40,p=.044
4. Shows Consideration toward Board	x^2=5.8,p=.055 r =.34,p=.016	x^2=3.2,p=.073 r =.29,p=.038
6. Envisions Change with Board	x^2=8.2,p=.016 r =.40,p=.004	x^2=6.4,p=.011 r =.40,p=.004
10. Empasizes Accomplishments for Board	x^2=3.5,p=.175 r =.26,p=.06	x^2=1.5,p=22 r =.22,p=.12
12. Provides Structure for Board[2]	x^2=8.7,p=.013 r =.40 p=.004	x^2=6.4,p=.011 r =.40,p=.004
14. Maintains Structure Board[3]	x^2=5.6,p=.06 r =33,p=.02	x^2=1.9,p=.16 r =.24,p=.09
16. Provides Information to Board	x^2=8.1,p=.02 r =37,p=.008	x^2=6.5,p=.011 r =.40,p=.009
17. Board Active in Broad Policy	x^2=10.4,p=.005 r =.44,p=.001	x^2=8.3,p=.008 r =.45,p=.001
Unsuccessful Event		
5. Envisions Change with Staff	x^2=5.1,p=.08 r =.27,p=.06	x^2=3.9,p=.05 r=.32,p=.02
6. Envisions Change with Board	x^2=4.7,p=.10 r =.30,p=.04	x^2=1.9,p=1.7 r =.24,p=.10

16. Provides Information to the Board	x^2=3.0,p=.22 r =.25,p=.09	x^2=1.7,p=.19 r =.23,p=.12
17. Board Active Broad Policy	x^2=7.6,p=.02 r =.37,p=.008	x^2=6.0,p=.019 r =.39,p=.006

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[1] Significance levels for r are two-tailed.

[2] This item's reliability (K=.303) does not quite meet the standard (.4) for "good" agreement.

[3] Reliability for this item is K=.35

We found these results both surprising and encouraging. They were surprising in that, given that our more effective sample was developed by reputational nomination and that it is likely that all those who've become nonprofit chief executives are likely to have substantial skills, there were many significant results. Especially encouraging is the highly consistent nature of the results. Only one of the twelve items is not board-related. We would find it more difficult to credit and interpret a pattern of results in which, for example, there are three significant differences in board items and three significant differences in staff items.

Of course there is the possibility that the more effective chief executives described events that more often directly involved board issues and incidents. However, that was not the case. Of the successful events only two were directly board-related, one described by an executive in the more effective sample and the other by an executive in the comparison sample.[29] Five of the unsuccessful events were directly board-related, with four of those described by executives in the more effective sample and one by an executive in the comparison sample. However, in the unsuccessful events the more effective executives exhibited more board-regarding behaviors. Thus, the results are not an artifact of the nature of the events selected.

Much more so than statistical significance, the consistency of the relationship of CEO effectiveness with board-regarding behaviors convinces us that these results are real. Of course, tests of these results in other places, with additional types and sizes of nonprofit organizations is desirable. Nonetheless, we believe this study provides very credible evidence that more effective nonprofit chief executives work with and through their boards much more than others.

C. Personal and Organizational Correlates of Chief Executive Effectiveness

Finding that executives in the more effective sample are more board-regarding than those in the comparison sample leads to questions of what personal and structural factors promote board-regarding behaviors and to questions of what are the consequences of such behaviors. While such questions were not the main purpose of this project, other data collected in this study supply some clues. As Table 4 shows, nonprofit chief executives have a wide variety of academic degrees. The more effective sample is more likely to have advanced degrees, especially more management-oriented master's degrees. Does a professional master's degree experience somehow sensitize managers to the importance of boards?

TABLE 4

Highest Degree by CEO Sample

		Degree				
		Bachelor's or Less	MSW,MPA or MBA	Other Masters, Law, Medical	Ph.D.or Other Doctorate	
CEO Sample	Comparison	10	0	9	1	20
	More Effective	3	9	11	2	25
		13	9	20	3	95

x^2= 12.9, p=.005

Note: Since some cells have expected frequencies less than 5, the value of x^2 may be somewhat inflated.

Prior research has found variation in nonprofit chief executives' expectations of boards. Pfeffer[30] found that hospital chief executives' ranking of the importance of various board functions varied with the type of hospital (and, thus, environmental contingencies). We asked the chief executives in this study to rank their desired importance of three board functions - fund-raising, community linkages, and technical expertise in the organization's field. We also asked them to indicate the actual order of the board's strength in the three functions. Table 5 presents the chief executives' desired and actual rankings of the three board functions. It suggests that.the more effective and comparison samples tend to have somewhat different expectations of board roles. The more effective tend to be less likely to rank fund-raising as the most important board function (9 of 24 compared to 11 of 19 for the comparison sample). Correspondingly, the more effective executives tend to be more likely to rank linkages as the most important function (13 of 24 compared to 6 of 20 for the comparison sample). Such a result suggests that the more effective executives see their boards' relation to the environment in a different way than the comparison sample. Both groups see technical competence in the organization's field as of lesser priority. Perhaps ironically, the chief executives in the more effective sample tend to rank their board's actual fund-raising priority as higher than the comparison sample (17 of 23 rate it as first or second whereas only 9 of 18 comparison executives rated the board's actual fund-raising priority as 1 or 2).[31]

TABLE 5

Chief Executives Desired and Actual Ranks of Board Functions

Desired (D) or Actual (A) Rank of Board Function

CEO Sample	1st D	1st A	2nd D	2nd A	3rd D	3rd A	
Comparison	11	5	7	4	1	9	Fund Raising
More Effective	9	6	14	11	1	6	
Comparison	6	9	10	7	4	3	Community Linkages
More Effective	13	15	8	7	3	1	
Comparison	3	6	2	7	14	6	Technical Expertise
More Effective	2	2	2	5	20	16	

These data suggest that the more effective sample executives tend to less frequently desire fund-raising as the board's top priority and that their expectations of the board's emphasis on fund-raising is more often closer to the board's actual priority than is the case in the comparison group. To more directly test the latter possibility, we computed a "board fund-raising gap" score (subtracting each executive's rank of desired from actual). The average gap is smaller for the more effective sample than the comparison sample (t=2.0, two-tailed p=.05). Unfortunately, we have no data that help us understand how the more effective sample of chief executives come to develop somewhat different and more realistic expectations of the board's role in fund-raising. It may be that they came to their positions with these expectations. It may be that the board has more than adequately performed this function in the past and it is "expected" less. Or it may be something they've learned through experience. The more effective executives have been in their current positions longer than the comparison executives, an average of a little more than 8 years for the former compared to 5 years for the latter (t=-2.13, two-tailed p=.04), although the two groups do not differ in average age. Of course, the more effective sample executives may also have had different experiences; no doubt boards differ, both in their commitment to fund-raising and in their abilities to help chief executives learn to work with them effectively. Certainly an important line of research that has yet to be pursued, and needs to be, is that of board competencies.

The differences in board-regarding behaviors could result from or be related to differences in board size, frequency of meetings or other simple structural factors. Such is not the case. There are no significant differences between the samples on frequency of board meetings, existence of an executive committee, average percentage attendance at board meetings or last year's number of executive committee meetings. There is a tendency (non-significant) for the more effective executives to have larger boards (averaging almost 30 members versus 22 for the comparison sample, $t=-1.56$, two-tailed $p=.13$). Clearly, much remains to be learned about the precise ways the more effective executives develop and work with their boards.

We are persuaded that those nonprofit chief executives regarded as more effective do work with and through their boards more, yet we recognize the force of the "so what" question. In this research we have not attempted to assess the consequences of differing behaviors on the part of the more effective and comparison samples of executives. We were concentrating on prior questions. We did gather some financial data - on dollar amounts of revenue from different sources over the last three fiscal years. On neither current size (in dollars or FTE employees) nor in percentage change in total revenue or in the various sources (i.e. United Way allocations, fees, contributions, government grants and contracts or investment income) did the organizations headed by the two samples of executives significantly differ. On the one hand this can be seen as lack of bias in our community nominators - they did not identify the more effective mostly as those from the larger or financially more successful organizations. On the other hand, this lack of difference can be interpreted as indicating that the board-regarding behaviors have no measurable consequences. We believe that this latter view is premature. The consequences may be in other realms - in goal accomplishment, in efficiency, in constituent satisfaction, in responsiveness to community needs, and in providing for greater citizen involvement in public affairs. All these possibilities deserve investigation.

CONCLUSIONS AND IMPLICATIONS

Four principal conclusions emerge from this project. First, the critical incident technique can be used to reliably investigate management behaviors. More specifically, it suggests that the technique must be used with careful attention to selection of rating categories and inter-rater reliability. Second, the study has shown that those nonprofit chief executives regarded as more effective exhibit more behavioral skills than a comparison sample of chief executives. Third, the differences are almost exclusively concentrated in behaviors related to working with and through the board. We think this result should be interpreted from a resource dependence perspective. We suggest that the more effective chief executives have, to a greater degree than the comparison chief executives, learned to use their boards as strategic tools to mediate with their organization's environment. Fourth, the study points to other important lines of future research. We need to know how the board-regarding skills have been developed, including the role and behaviors of boards in affecting chief executive behaviors regarding the board. We need to know more about the consequences or outcomes of differences in chief executive behavioral skills, including outcomes not reflected in financial data. Finally, the generalizability of these results must be assessed. Will the same results obtain in other locations, with other methods, with different types and sizes of nonprofit organizations?

While much remains to be learned about the skills of highly effective nonprofit chief executives, we believe this research has three important implications. First, greater emphasis on board-regarding behaviors in nonprofit management development and educational settings seems indicated. The differences in educational backgrounds of the more effective and comparison chief executives suggests that university-based management education may be contributing to differences in board-regarding behaviors. No doubt other management development settings also make important contributions to the acquisition of these skills. Certainly university continuing education and professional association workshops have included board relations training. Perhaps more and different training activities are called for. Though we have no data on this possibility, we suspect that the opportunity to work with a board as a middle-level manager is likely to be important in developing board-regarding skills. Second, chief executive selection procedures might include systematic attention to board-regarding skills, either in a candidate's previous chief executive role (if he or she has had such a position) or in their previous management positions (if a person has not had chief executive experience). Interviews or questionnaire responses from many of the members of the candidate's prior board would seem worthwhile. Finally, executive board-regarding behaviors are bound to be influenced by the practices of boards. We believe this research also suggests that boards examine their behaviors relating to the chief executive. Does the board expect and reward the executive's transmission of information, especially negative information? Is the board willing to assign specific duties and set deadlines? A chief executive cannot unilaterally provide and maintain task structure for a board. The board must mostly get the executive behavior they expect and encourage.

NOTES

[1] For a more extensive review of the issues and literature on managerial effectiveness, especially in relation to nonprofit executives see Heimovics and Herman, 1986a.

[2] For reviews of the literature see Campbell, 1977, Cameron, 1981, Quinn and Rohrbaugh, 1983. For a review of the literature especially focused on nonprofit organizations see Independent Sector, 1986. For criticism of the effectiveness concept see Hannan and Freeman, 1977 and Bluedorn, 1980.

[3] Pfeffer, 1982.

[4] See the sources cited in note 2 for elaborations of the criticisms of the goal attainment approach to effectiveness. See also Kanter and Brinkerhoff, 1981, who argue that the "most interesting questions [in the study of effectiveness] are not technical, they are conceptual: not _how_ to measure effectiveness or productivity, but _what_ to measure; _how_ definitions and techniques are chosen .... this review of the literature on performance measurement confirms the emerging 'political' model or organizations .... which views organizations as battlegrounds for stakeholders, both inside and outside, who compete to influence criteria for effectiveness so as to advance their own interests." (pp. 321-322)

[5] Hannan and Freeman, 1977b; see also Hannan and Freeman, 1984.

[6] Pfeffer and Salancik, 1978.

[7] For representative statements of some versions of this perspective see Weick, 1969 and 1979; Cohen, March and Olsen, 1972; and Meyer and Rowan, 1977.

[8] Pfeffer and Salancik, 1978.

[9] Middleton, 1983. See also Herman and Tulipana, 1985.

[10] Pfeffer, 1973; Provan, 1980.

[11] For research on attributional processes in nonprofit organizations see Heimovics and Herman, 1986b.

[12] The "comptency movement" in management education is more thoroughly discussed in Heimovics and Herman, 1986a. For descriptions and applications of the comptency approach to investigating managerial effectiveness see McClelland, Klemp and Miron, 1977, Boyatzis, 1982, Klauss _et al_., 1981 and Flanders and Utterback, 1985.

[13] The critical incident technique is an "old" (having been developed in the 1940's) and popular method of gathering behavioral data when direct observation is either not possible or too expensive and time-consuming. Fivars, 1980 contains an extensive bibliography on the technique.

[14] Both colleges and hospitals are in industries characterized by competitors from all three sectors. Both are based in professions. Professional norms and associations may very well have more and different effects in such organizations than in other nonprofit organizations. Both tend to be larger, numerically and bugetarily, than other nonprofit organizations. Both are embedded in a complex and specialized network of funding, regulating, accreditating and licensing agencies and practices. Our judgment is that both colleges and hospitals are distinct "slices" of the social structure and neither slice is similar to the slices that include most other private, nonprofit organizations. As a practical matter we also recognized that we were likely to have too few hospitals and colleges to permit much useful statistical analysis of such subsets of the sample.

[15] Our comparison sample can be, more colloquially, labeled "less effective," though we believe they are probably fairly successful as well (as some financial and other measures will later support). Any study of the effectiveness and behaviors of chief executives is subject to restriction of range phenomena. That is, those selected as nonprofit chief executives are likely to be a fairly limited and homogeneous portion of the entire population. While there may not be a great deal of variation in the population of chief executives, there is likely to be some. Further, though a reputation for effectiveness may not be equivalent to actually being effective, if the political model is correct what's important is a reputation as effective. Even if one rejects the political model and holds out for the possibility of some objective measure of effectiveness, as a practical matter there seems to be no other way of developing effective and comparison samples.

[16] Interviews were conducted by two highly experienced interviewers. Executives were randomly assigned to them. The intervews were conducted over a six month period. Pilot testing and development of the interview methods had earlier been conducted with health services managers by a group of UMKC graduate students.

[17] Our raters are both Ph.D. candidates in psychology with experience in the nonprofit sector.

[18] Boyatzis, 1982 supplements this ad hoc approach with the addition of some motivational items (e.g., achievement, power and affiliation motives) based upon the work of McClelland.

[19] Boyatzis, 1982 and Flanders and Utterback, 1985.

[20] Huff, 1985.

[21] Quinn and Rohrbaugh, 1981, 1983; Rohrbaugh, 1981, 1983. The dimensions are structure (from flexibility to control), focus (from internal to external) and means-ends. We believe our items partially reflect the first two dimensions.

[22] In a study based upon additional data collected during this project, we found chief executives are seen by others (i.e., the board president and subordinates) and themselves as greatly responsible (more so than others are responsible) for success and failure. See Heimovics and Herman, 1987.

[23] Calder, 1977.

[24] Yukl, 1981.

[25] Quinn, 1983.

[26] All the leadership items included more detailed specifications of the behavior. A copy of the behavior rating form may be obtained by writing the authors.

[27] Cohen, 1980.

[28] Landis and Koch, 1977.

[29] See Herman and Heimovics, 1986 for a description of the categories of events.

[30] Pfeffer, 1973

[31] Totals differ slightly because one executive did not provide ranks and a few provided only one rank.

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WORKING DRAFT

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THE DECISION MAKING AND ALLOCATION PROCESS IN CORPORATE PHILANTHROPY

by

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Corporate gifts to nonprofit organizations constitute a tiny fraction of a company's income. Major firms typically give only about 1 percent of their pretax net income. Yet companies frequently feature their giving programs as centerpieces of company efforts to serve the community, and for many firms contributions programs have become an important element in their strategic planning. The stakes are large on the other side of the gift relationship as well. While corporate gifts rarely constitute more 10 percent of the income for major nonprofit organizations, business support has come to be viewed as vital to growth.

The purpose of this paper is to review major features of the decision making and allocation process in corporate giving programs. Understanding the organization of company contributions has implications for how companies more generally organize their social programs. Political action, public affairs, community relations, and contributions programs tend to operate according to similar principles, and the dynamics of company giving thus reflect on other areas of corporate outreach as well. Insight into the dynamics also contains practical implications for those concerned with increasing private contributions. In recent years, nonprofit fund-raising efforts have of necessity intensified as federal government funding has declined. The effectiveness of such efforts depends on a comprehension of why and how companies decide to make charitable donations.

The paper is divided into three sections. We first consider the main features of company decision-making procedures in charitable giving, including general criteria in setting contributions levels and selecting recipients. Then, we turn to the influence of market factors on corporate giving, noting the particular importance of company income in driving contribution levels. Finally, we consider the influence of organizational factors on corporate philanthropy, stressing the importance of such elements as company size and executive leadership in giving decisions. It should be noted that much of the following discussion focuses on the practices of major companies, for they are responsible for the bulk of corporate giving. Most small companies have no program, while virtually all corporations with sales over $500 million do so. The concentration of contributions, as a result, is considerable: the nation's largest one-tenth of one percent of firms account for half of the total dollar value of all corporate giving.[1]

THE GENERAL CRITERIA OF CORPORATE GIVING

Among corporations with relatively small contributions programs, the giving is often allocated on a relatively ad hoc basis, with few fixed rules and procedures for setting priorities and selecting recipients. Among the larger programs, however, the rules of professional management now generally prevail. The professionalization of corporate giving accompanied the more general elevation of public affairs and community relations during the 1970s. Only a handful of companies maintained a formal public affairs office in 1970, according to one study, but more than 80 percent of the top five hundred manufacturing firms did so by the 1980s. Three-quarters of their public affairs offices are now headed by managers with the rank of vice president, indicative of the ascent of public affairs -- and its contributions function -- into the higher reaches of the organizational chart.[2]

Direct study of the contributions process among large companies reveals widespread formalization of the giving procedures and their integration into company planning. Eighty percent of 240 major firms surveyed in 1980-81 had developed formal policies on gifts, and 60 percent had issued written statement. Though company contributions represent only a tiny fraction of the cash flow that senior managers must oversee, the top levels of management are almost always responsible for the broader outlines of the contributions program, including the levels of giving, allocations among broad classes of recipients, and rules for selecting beneficiaries. In four out of five of the 240 surveyed companies, contributions policies were primarily set by the chief executive, a committee of executives, board of directors, or the chairman (Table 1). Similarly, a survey of 440 major firms in 1975 revealed that general gift policies are usually developed at the highest levels of management. Two-thirds of the firms reported that the chairman and president played a major role in setting goals, priorities, and and budget levels for their contributions programs.[3]

Table 1. Primary Policy Setter and Primary Manager of Company Contributions, 229 Major Companies, 1980-81

Manager or mangerial group	Primary policy setter	Primary manager
Committee of executives	28%	25%
President or chief exec.	23	9
Board of directors	18	3
Chairman of the board	11	2
Trustees of foundation	9	7
Designated officer	8	50
Committee of found. exec.	4	3
Plant committee	0	1

Source: Siegfried et al., 1983.

The actual allocation process is typically managed by a corporate officer, often working with an advisory or allocations committee which generally approves the officer's recommendations. This structure was adopted by half of the 240 surveyed companies (Table 1). In other cases primary responsibility for allocations is held by a committee of executives (25 percent of the firms), the president (9 percent of the firms) or other managers or groups, but such arrangements are exceptions among large corporations. The contributions officer is assisted by staffs comprising as many as fifteen full-time employees in firms annually contributing tens of millions of dollars. The typical staff allocation, however, is relatively modest, consisting of an executive devoting a quarter of his or her time, a half-time secretary, and a committee that meets occasionally. Even this staffing is more than most small companies can manage. Among companies whose annual sales range between $25 million to $50 million, most decisions on both the level and targets of giving are taken by the chief executive alone. The relationship between a company's size and several measures of formalization -- including staffing, written policies, matching-gift programs, and creation of a company foundation -- is revealed in a 1984 survey of 62 Massachusetts companies. Ninety percent of the firms whose annual giving was less than $75,000 had none of these formalized elements, while two-thirds of the firms whose annual giving exceeded $0.5 million had adopted each of them (Table 2). Similar correlations are evident in a 1981-82 study of 150 companies based in the Minneapolis-St. Paul area.[4]

Table 2. Percentage of Companies with Small, Medium, and Large Contributions Programs That Have Incorporated Major Formalization Elements into the Giving Process, 62 Massachusetts Firms, 1984

Size of Annual Giving Program	Staff size > 1.5	Written statement	Matching-gift program	Company foundation
Under $75,000	10%	8%	8%	8%
$75,000-$500,000	42	39	39	42
Over $500,000	69	85	67	85

Source: Useem and Kutner, 1986.

The professionalization of corporate giving during the 1970s was accompanied by the creation of numerous company foundations. Approximately half of the nearly 800 large firms surveyed by the Conference Board in 1981 maintained a company foundation by then, and foundation donations accounted for two-fifths of all giving by these firms. Foundations typically operate alongside a company's regular giving procedures, accounting for some but rarely all of a given corporation's contributions. Foundations permit a company to shield a portion of its gifts from internal management pressures and the vagaries of fluctuating income. Regular contributions are closely tied to annual company income, but foundation contributions derive in part from separate reserves. Though the reserves had themselves derived from earlier company income, foundations draw them down in lean years and replenish them in better years. Company profit rates were near a postwar low in 1981, for example, and 64 percent of the company foundations gave out more than they received from their firms; two years before, prior to the worst of the recession, more than half -- 53 percent -- had reported a positive income balance.[5]

Professional administration of charitable programs among large companies is thus the norm, but nonbureaucratic and personal factors still intrude. In one middle-sized company in Minneapolis-St. Paul, for instance, the president's wife, who carried no official title, was given the role of deciding on contributions. And chance events may at times determine how monies are allocated among the major groups of beneficiaries. A New York company's abrupt entry into the leading ranks of corporate benefactors of the visual arts is illustrative. The origin of the decision to invest in an area in which the firm had no previous record could be traced to a sudden interest of the company's chief executive. An acquaintance, a chief executive of another major firm, bemusedly described the conversion: "You couldn't get [the chief executive] to look at a picture, period. Then somebody persuaded him to sponsor something at the Whitney Museum, and suddenly everybody in his company was interested.... He got very excited about the whole scene, being invited to the Whitney and having the company sponsor it. And now, the next thing I know, he's calling up people including myself: 'Say, would you host a little party of artists that are coming together?'" Despite the professionalization of contributions management, individual preferences among a company's senior officers can thus be as important here as anywhere in corporate decision making.[6]

When professional considerations do prevail, contribution officers review requests for gifts with criteria in mind that are generally akin to those used by private foundations and government agencies. Among the leading considerations are the nonprofit organizations' reputation, the quality of the proposed program, and the likelihood of successful completion. The 1980-81 study of 240 major U.S. firms, for instance, asked responsible managers to rate the importance of various qualities of a potential donee in reviewing a gift request. The leading element, specified by 53 percent, was the effectiveness of the organization in delivering services. In assessing effectiveness, about a third of the companies examined the ratio of the organization's administrative expenses to the services delivered. The quality of the administration of the requesting organization was the next most important factor (stressed by 48 percent of the firms), followed by the organization's reputation (29 percent) and the philosophy guiding the organization's services (18 percent).[7]

MARKET FACTORS IN CORPORATE GIVING

Some firms give generously, whereas others contribute little to nonprofit organizations. Some corporations allocate large shares of their contributions budget to cultural organizations, while others prefer the human services. Company policies are by no means uniform, and the factors that account for the diversity can be usefully divided into two broad groupings: those that are largely derived from a company's pursuit of income, here termed market factors; and those that are related to the firm's internal structure, management style, and external relations, here termed organizational factors. The market factors drive corporate giving decisions in much the same way that they shape product development, marketing, and other traditional areas of company decision-making.

The single most important market factor underlying corporate giving is the traditional measure of company success, its net income. More profitable firms give away more money. During the past several decades, a one-percent rule has come to prevail among major firms: most give, on average, about one percent of their pretax net income. When a company's pre-tax profits increase by $1 million over the previous year's income, its annual contribution can be expected to rise by about $10,000. When a bad year follows good instead, the reverse prevails.[8]

Corporate giving, however, is more than a passive product of corporate success. It is used to stimulate success as well. The clearest illustration of this application is in the area of marketing. A study of America's 55 largest investor-owned electric ultilities, for example, found that the percentage of gross income that a utility contributes to nonprofit organizations is strongly correlated with the firm's advertising and customer service expenditures. Since advertising and customer service are surely not alternative forms of charity, it follows that the charitable contributions are an indirect form of marketing. Similarly, other studies of inter-industry variations in rates of spending on advertising and philanthropy reveal high correlations, again suggesting that contributions are partially driven by marketing strategy. Industries with high degrees of public contact -- insurance, retail and lodging -- thus run significantly higher advertising and contributions programs than do mining, construction, and primary metals -- industries with little public contact.[9]

Market considerations are also apparent in the varying emphases among areas of giving by companies in different sectors. Commerical banks contribute a far greater share to civic and community affairs than do manufacturers of electrical equipment, which instead give disproportionately to educational institutions. An explanation can be traced to sectoral differences in market concerns. Bank prosperity is strongly tied to the local economy, and civic gifts are viewed as contributing to the quality of life in the local region and thus, indirectly, to community prosperity and future bank earnings. Selling in the national market, equipment manufacturers are less concerned with regional prosperity and more concerned with ensuring a flow of well trained engineers and scientists from the nation's colleges and universities. These and other distinctive sectoral attitudes are encoded in the tactical thinking of fund-raisers. In seeking support for major community projects, such as a public-private partnership to revitalize a city's schools, civic fund-raisers share a common premise that the first call should be made to the area's banks. University fund-raisers, by contrast, are more likely to approach the major electrical equipment makers.

While more profitable corporations make larger contributions, there is less certainty whether more contributions make companies more profitable, at least in the short term. A study of thirty commercial banks in Texas, for example, found little correlation between contribution levels and income. Analysts reviewing studies of corporate social programs, including giving, generally side with the conclusions of one reviewer that "there is practically no evidence of any strong association among socially relevant behaviors, whether desirable or undesirable, and any of the usual indicators of economic success."[10]

Yet there is evidence that contributions often influence other factors that can in turn enhance the market position of the company. Among the leading intermediate factors is corporate image. One national survey, for instance, revealed that the public is aware that firms vary in social responsiveness -- and that the public's perceptions correlate with the actual level of company contributions. And there is evidence that a company's reputation for social responsiblity may also spawn a reputation for being a well-run business. The study of company giving in Minneapolis-St. Paul found that local leaders judged major corporate contributors to be not only more responsible companies -- but better operated companies as well. In the summary words of the researcher, "a reputation as a successful business appears to have been a function of either how much a company earned or how much it gave away."[11]

ORGANIZATIONAL FACTORS IN CORPORATE GIVING

Regardless of the extent to which corporate giving decisions are disciplined by concern for profitability, organizational factors have an independent impact on the giving process as well. The most important single organizational factor underlying corporate giving decisions is firm size. Larger firms contribute more money, regardless of profits. Moreover, they more uniformly give near the one-percent level (of pretax net income), and they allocate their funds in a more consistent way among the major groupings of nonprofit recipients. The driving force here is professionalization: larger firms operate more formalized programs, and their policies are more subject to the norms prevailing within the corporate community. The 1984 study of 62 Massachuetts firms, for example, found that large contributions programs distribute their monies more conventionally than do small programs. Among firms with smaller giving programs (using the size divisions in Table 2 above), the typical company allocated 10 percent of its total budget to education; the figure for middle-sized programs was 22 percent; and the average proportion for the large programs was 29 precent, just short of the 31-percent national norm prevailing at the time. The transition point appears to be for programs near the $500,000 annual giving level: when programs have reached this size, most of the elements of professionalization are in place, and further budget growth is accompanied by few fundamental changes in program outline.[12]

A close second to firm size as a driving force in corporate giving is top management commitment. Senior managers tend to remain involved in giving decisions, and they are no less involved in shaping giving policies in large than small firms, though chief executives of major firms delegate much of the operational authority to contributions officers. Indicative of the authority often retained by the chief executive is the contributions policies of one large manufacturing firm. With sales of more than $8 billion annually, division managers who have never met the company president have final spending authority for projects of up to $50 million. Yet the chief executive insists of reviewing all charitable gifts exceeding $500.

The active support of top management, above all the chief executive, can thus be critical to the quality, scale, and allocations of a giving program. A study of 48 major companies with well established giving programs in 1985, for example, finds that the chief executive's "thoughtful affirmation" of the contributions function was particularly important for building a quality program. "The components of excellence" in a contributions program, concludes the researcher, "can be most fully attained when they reflect the commitment and challenging support of the chief executive." The importance of the chief executive's support for the level of giving can be seen in the results of the Massachusetts study. Companies whose CEOs were more vigorously involved in the contributions effort experienced significantly higher growth rates in their budgets than did other firms. Similarly, a national study of 219 companies in 1982 revealed that the precentage of pretax net income allocated to contributions by firms with highly committed chief executives was double that allocated by firms whose CEO's commitment was low. Finally, the distribution of funds can be significantly shaped by the chief executive as well. This is illustrated by the findings of the Minneapolis-St. Paul study, which reported that a company's funds are strongly skewed toward nonprofit organizations on whose governing board the CEO is serving.[13]

A firm's position in the local community is also an important source of influence. Companies tend to give more in communities where they are headquartered. According to one study, companies give approximately $40 per employee to nonprofit organizations near plant locations; by contrast, they give $200 per employee to nonprofits near headquarters. And companies also give more where there is higher demand. The greater the number of major hospitals, arts organizations, educational institutions, and human service agencies in a region, the higher is the local corporate giving rate.[14]

But perhaps the most significant community factor is the local attitude of business toward contributions. Regional business communities evolve distinct climates of giving among their members. Whatever a firm's level of income or managerial commitment, if the local business community considers generous giving a corporate obligation, the firm will tend to be more responsive. There is ample evidence that companies do look to one another for guidance. Nearly a third of the corporate executives responsible for giving programs of 440 major firms reported in response to a 1975 survey by the Conference Board that "peer company comparisons" are a major factor in setting the contribution dollar level. Other studies report that firms are aware of one another's policies, frequently consulting and comparing contributions, and companies confirm that pressure from other firms often has a very important influence on their own giving decisions, ranking in salience with the intrinsic merits of the appeal. Distinctive aggregate levels of corporate giving have thus evolved in various metropolitan regions, with the percentage of pretax net income allocated by major companies varying by a factor of more than two. San Francisco firms on average gave 0.87 percent of their pretax net income in 1982 and New York firms gave 0.79 percent, whereas the rate among Minneapolis-St. Paul firms was 1.72 percent.[15]

The influence of the local business culture finds national parallel as well. Major companies vary considerably in the extent to which their top managers take active roles in the governance of other companies and in national business affairs. If a firm's senior management is more externally engaged as directors of other companies and leaders of major busienss associations -- and is thus more sensitized to national norms on corporate social responsibility -- the company becomes more active in a range of social programs, including giving efforts.[16]

The concentration of company resources within an industry also has a bearing on the contributions programs. In product sectors containing only a few dominant firms, giving rates are higher than in sectors populated by many firms, each with modest market shares, even taking varying profit levels into account. It would appear that firms in highly concentrated markets, less constrained by the competitive fray facing companies in unconcentrated sectors, can be more generous in budgeting their giving programs.[17]

Finally, decisions stemming from corporate reorganization can also shape company contributions. The acquisition of one company by another, for example, can have significant impact, though the specific consequences depend upon the particular firms involved. Because of the high concentration of giving near company headquarters -- typically about three-quarters is in the region of the main office -- the acquisition of one company by another company headquartered elsewhere is likely to diminish the local contributions of the acquired firm. When the Chevron Corporation of California acquired Gulf Oil Corporation in 1984, the latter's $1 million annual contribution to its headquarters region of Pittsburgh was substantially reduced. On the other hand, if the acquiring company had already adopted national conventions on appropriate giving levels, the total contributions budget of the two companies combined may be no less than when they were separate. In the year Chevron acquired Gulf Oil, Chevron ran a giving program of about $20 million and Gulf Oil of about $5.6 million; in the following year, Chevron's enlarged giving program totalled $27 million, about what would have been expected of the two companies separately.

In some cases, particularly when a large firm with a well established giving philosophy acquires a company with little giving history, the net impact may even be to increase the corporate giving dollar. When the acquiring firm has less of an established giving history, however, the effect maybe the opposite. Regardless of the total amount, an acquisition can also alter the distribution of monies. Since mergers generally consist of large corporations taking over smaller firms, acquisitions may more often than not increase giving to education and decrease giving to other areas. This is because larger firms tend to allocate a greater proportion of their giving budget to education, and the parent may impose its policies on the giving of the newly acquired subsidiary.[18]

CONCLUSION

The dual influence of market and organizational factors has implications for how we view the process of decision making and allocation in corporate contributions. The salience of both kinds of factors suggests that company policies in this area are shaped by both economic and social considerations. The corporation is not purely an economic actor, but neither is its giving program entirely socially driven, and it would be a mistake to view a firm's giving program entirely in terms of one or the other. The relative balance of market and organizational stimuli, however, will vary from firm to firm. In some companies, giving programs may be largely driven by market considerations, while in others organizational factors may be more paramount.

For those concerned with increasing corporate giving, the mix of both market and organizational factors suggests complex means of intervention. The Independent Sector's announcement in 1986 of a five-year campaign to double charitable giving by 1991 includes, for example, the goal of doubling corporate contributions over the same period. Much of the achievement of this goal will be a direct product of growth in corporate income. Corporate gifts in 1985 totalled $4.3 million, and on the basis of projections of corporate income through 1991, it is expected that contributions that year should, if nothing else changes, reach $7.7 billion. This is only $0.9 billion short of goal of $8.6 billion, and, thus, the premier market factor -- expanding corporate income -- should achieve the bulk of the expansion sought.[20]

Still, additional corporate giving must be stimulated to make up the $0.9 billion difference, and our findings on the influence of organizational factors point to the importance of reaching top management. If leading executives can be persuaded to take a more active role in promoting private giving, their intensified interest should stimulate the contributions levels of not only their own programs but those of other corporations as well. We have seen that companies look more to one another for guidance on appropriate giving levels than to any other institution in American life. Thus, committed executives carrying the message to less committed contemporaries may be the most important single action step for encouraging additional growth in business contributions.

The mix of market and organizational factors in corporate giving programs also suggests that effective appeals for increased corporate giving must be responsive to both concerns. For companies whose programs are more disciplined by market considerations, the potential payback of enhanced contributions should be made evident. It may be useful to point out, for example, the value of local contributions in improving a firm's reputation not only as a generous benefactor, but also as a well run business. For firms whose programs are significantly shaped by organizational factors, it may be equally important to address an appeal in these terms, stressing, for example, the business community's belief that responsible executives should commit their company to supporting local causes.

For individual nonprofit organizations seeking additional corporate assistance, the joint influence of market and organizational factors would suggest approaching firms whose income stream has been rising and securing the early endorsement of several company executives. We have seen that the top officer's active interest can decisively move their companies to make grants. This in turn can encourage other firms to be more forthcoming, especially if the endorsing officers are willing to approach senior managers in other companies on behalf of the fund-raising effort. Drawing on the network of mutual influence within the highest circles of corporate leadership may have become one of the most effective avenues for attracting corporate support.

The leverage of corporate endorsement may be all the more important during the coming years as additional companies enter the ranks of major contributors. As they do so, their contributions programs are likely to become more professionalized in administration, but also more subject to external business pressures as they acquire greater sensitivity to the norms of the corporate community. Decision making and allocation in corporate giving programs, as a result, are also likely to become convergent, with more consistent organizational structures, budget levels, and distribution policies.

NOTES

1. Smith, 1983.

2. Post et al., 1983.

3. Siegfried et al., 1983; Harris and Klepper, 1976.

4. Siegfried et al., 1983; White and Bartolomeo, 1982a; Useem and Kutner, 1986; Galaskiewicz, 1985.

5. Lahn, 1980; Troy, 1983.

6. Galaskiewicz, p. 124; Useem, 1984, p. 122-23.

7. Siegfried et al., 1983.

8. Useem, 1987; McElroy and Siegfried, 1984.

9. Levy and Shatto, 1978; Burt, 1983; Fry, Keim, and Meiners, 1982.

10. Kedia and Kuntz, 1981; Preston, 1981; Cochran and Wood, 1984.

11. White, 1980; Galaskiewicz, 1985, p. 214.

12. Useem and Kutner, 1986.

13. Useem and Kutner, 1986; Galaskiewicz, 1985; Knauft, 1985, p. 14; White and Bartolomeo, 1982b.

14. Wolpert and Reiner, 1980; McElroy and Siegfried, 1984.

15. Harris and Klepper, 1976; Council for Financial Aid to Education, 1984; Maxwell and Medgyesi-Mitschang; Useem, 1987.

16. Useem, 1984, pp. 125-129.

17. Maddox and Siegfried, 1980; Burt, 1983.

18. Siegfried and Sweeney, 1980; McElroy and Siegfried, 1984; Desruisseaux, 1986; Lord, 1985.

19. Independent Sector, 1986.

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RECRUITMENT, MANAGEMENT, AND RETENTION OF VOLUNTEERS - FROM A VOLUNTEER'S PERSPECTIVE

by

Cathaleen Finley

Prepared for
Management Issues Panel
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INTRODUCTION

Volunteers are important to a group, agency, or organization because they expand the potential for achieving goals. Volunteerism is important to volunteers because it helps them meet personal goals and to grow and develop as individuals. This paper looks at volunteerism through the eyes of volunteers. It focuses on what volunteers gain through their volunteer activity. Data from the Implications of Volunteerism in Extension (IVE) study are used to examine gains from volunteerism.[1]

Several theories have been used to explain why people serve as volunteers.

- Widmer (1985, 9) developed an incentive model to explain why people to participate as volunteer board members. She says there are four incentives for participation: material, social, ideological, and developmental.
- Miller (1985, 113) used expectancy theory to study volunteers who were employed. This theory suggests that people choose to behave as they do because they believe that doing so will help them achieve a specific, valued goal.
- Henderson (1981, 20-21) based her study on McClelland's expectancy motivation theory (1976) which says there are three factors that affect motivation: the need for achievement, the need for affiliation, and the need for power.
- Other studies have used Maslow's hierarchy of needs theory (Maslow 1970). Wilson (1976) suggests that volunteering provides the potential for meeting the higher level needs - belonging, self-esteem, and self-actualization.

This paper uses selected data from the IVE study (Steele, et al. 1985; 1986 in process) to explore what volunteers gain from their volunteer activity.

METHODOLOGY

Widmer's model (1985, 9) was used as the conceptual framework for analyzing the four main categories used in this study. Subcategories were used for each main category. The categories are as follows:

1. Social gains
    a. Altruistic feelings
    b. Feeling of belonging
    c. Family enhancement
2. Developmental gains
    a. Acquisition of knowledge
    b. Skill development
    c. Self-esteem
    d. Self-actualization
    e. Job compensation
    f. Generativity
3. Ideological gains
    a. Continuing a family tradition
    b. Returning a favor
    c. Fulfilling a community obligation
4. Material gains
    a. Enhancing economic gains
    b. Enhancing opportunities or position
    c. Enhancing employment opportunities

Two sources of data, one quantitative and one qualitative, were used for this study. A randomly-drawn, stratified national sample of 315 counties was used for the IVE study. For qualitative data, 12 counties were drawn in a stratified sample from the counties forming the original IVE sample. Three counties were drawn in each region: one county from those having less than 10,000 people; one from those having from 10,000 to 99,999 people; and one county from those having more than 100,000 people (Steele, et al. In process).

Extension staff selected volunteers and participants in volunteer programs for the informal, unstructured face-to-face interviews which were tape recorded. The interviewees were asked to tell about their experiences with volunteer programs. More than 700 individuals were interviewed (Steele, et al. In process).

About 500 tape recorded interviews were examined for instances when the interviewees described benefits. Statements pertaining to the questions "Why do you volunteer?" or "What have you gained from volunteering?" were used for this paper.

The statements were sorted according to the selected categories. Typical quotations of the interviewees are used to illustrate each category.

As part of the IVE study, Extension staff in the sample counties supplied lists of volunteers (Agriculture Cooperators, Extension Homemakers, 4-H leaders, Master Volunteers for gardening and Home Economics, and Resource volunteers). A random sample of each group was selected. A structured telephone survey was completed with 1114 volunteers. Part of the survey focused on benefits to volunteers (Steele, et. al. 1985). These items provide the quantitative data for this study. The items describing benefits for volunteers were sorted according to the categories developed for this paper.

FINDINGS

Social Gains

Social incentives are intangible rewards such as friendship, status, and honor. They are expected as a consequence of associating with others (Widmer 1985, 9).

The data from the face-to-face interviews tended to fall into three categories: 1) altruistic feelings, 2) a feeling of belonging, and 3) family enhancement.

Altruistic feelings. For some, volunteering meets the need to help others. Following are examples of how the volunteers described this reward:

> "I know that it taught me how to reach out to others...not only in making friends, but in helping people that you otherwise wouldn't have really known."

> "We had a lot of people come up and ask questions, and it's a good feeling knowing that you're helping someone."

Feeling of belonging. Belongingness is one of Maslow's higher order needs (1970, 43-45). The data suggests that volunteering frequently meets the need to have social contacts with others. Following are some typical responses to the question, "What did you gain from volunteering?":

> "We met an awful lot of people, and a great many have remained friends and acquaintances over the years."

> "These are women with whom I wouldn't have crossed paths. The things I do don't cross with their lives, and I would have missed knowing all those people...and they're wonderful."

Volunteering appeared to be especially useful for fulfilling the need to belong for those who were new in a community:

> "I enjoy working with all these ladies. When I first moved over here, I sat home five or six days a week with nothing to do. Now, I'm lucky to sit home one day a week. I get companionship."

> "It really helps to get involved in something, because as a military family, you pick up and move a lot and don't really know anyone; and it really helps to volunteer."

Family enhancement. Volunteering, particularly in programs in which children are involved, can be a means for enhancing family closeness and togetherness according to some of the volunteers who were interviewed.

> "I think this is the most beautiful thing about 4-H, it does enable families to do things together as a family and draws the family closer together."

> "The primary reason I volunteer is because of the emotional needs the kids have; have to have something in common in order to have that bond with them."

Quantitative findings. In the IVE Phase II telephone survey of volunteers, it was found that 90% gained satisfaction from helping others, 90% made new friends, and 71% indicated volunteering had increased their family's closeness.

The Gallup poll (1986, 38) revealed that 55% of the volunteers continued because they were doing something useful to help others. In both the IVE study and the Gallup poll, this item had the highest response. The Gallup findings also showed that 24% of the volunteers continued because they had someone involved who would benefit from it.

Whaples and Bordelon (1983, 7) note that 4-H can be viewed as an enhancement of the parent-child relationship and may be especially useful for employed women. Some employed women are concerned about the quality of the time they spend with their children. Volunteering in a youth program provides women an opportunity to enhance family activities as well as meet other needs of their own. Henderson (1981, 25) concluded that 4-H serves as a way to bring families of volunteers closer together.

Developmental Gains

Developmental incentives are intangible personal rewards such as the opportunity to use or acquire knowledge (Widmer 1985, 9). For this paper, developmental needs refer to acquiring knowledge as well as other social psychological needs. These needs are: skill development, self-esteem, self-actualization, job compensation, and generativity.

Acquire knowledge. A primary role for Extension volunteers is to share knowledge with others either through individual and group teaching or planning and implementing community events or projects. Many of those interviewed noted what they had learned as volunteers. This acquired knowledge covered a wide range of topics. When asked about the benefits of volunteering some replied as follows:

> "I love learning new things. It's almost like I can't get enough. I never did get to go to college, and it's almost like this has been my college education - meeting new people, getting to go places I've never been, digesting books that we get."

> "Frankly, I became a volunteer for the purpose of learning as much about gardening as I could. It was a selfish motive in the beginning, and it turned out to be a very unselfish project."

Skill development. Skills related to communication and leadership were among those noted by the interviewees.

> "You have to figure out ways of getting things done, of letting people think it's their idea, giving lots of praise, letting them know that they're doing a good job."

> "It's really helped me out a lot because I've become more conscious of my own skills. To be a volunteer, you have to be better organized and more conscious of your time. And, be considerate of other people... helps me be a better person."

Self-esteem. Learning communication skills appeared to lead to meeting other needs. One of Maslow's higher order needs, self-esteem, seems to be met by some volunteer activities (Maslow 1970, 45-46).

> "I was very shy when I worked. And after I became involved in volunteerism, I have been involved in some really exciting things which broadened me, and I found out that I have to stand up and speak for myself. You wouldn't believe the difference it has made in may life. I'm a lot more self-confident. I don't mind going out and doing things."

The need for self-esteem, prestige, success, and self respect seem to be fulfilled by volunteer activity. Following are examples of other comments.

> "As I said, if it weren't for volunteering, I would have never had the nerve to do something like this."

> "Self-satisfaction. There's a matter of prestige involved in the parks board."

> "There's a sense of pride in seeing kids achieve that I really enjoy. Kids need training. This is the fulfillment I've had - just pride in seeing what I've done."

Self-actualization. There were instances when the volunteer experience seemed to fill the need for self-actualization, the highest level need of Maslow's hierarchy (Maslow 1970, 150). One woman explained this reward as resulting from her volunteer activity.

> "I'm not just a mom, and I'm not just a wife. I'm not just a person who stays home all day."

> "It gives a satisfaction of something different to do as a woman. Quilts are forms of art, not a necessity. Need to feel good about some of the things we do."

> "Through volunteering...it helped me feel that I could be who I am."

Job compensation. Some volunteers explained that volunteer activity compensated for certain aspects of their employment. One volunteer explained.

> "In my employment I do collecting for a credit union and that can get pretty depressing. So, I need other outlets. Volunteering gives me that - relieves stress. One has to force oneself to get away from it and forget, and that's what this volunteerism does. It does help you relax and get away from your problems."

While some people may work at creative jobs, others may face 40 hours of tedium. Whaples and Bordelon (1983, 8) suggest that volunteerism can be a creative outlet, change of pace, or social diversion for the employed.

Generativity. Erikson's developmental stage theory identifies generativity as a need which occurs at about age 40. He defines generativity as "concern in establishing and guiding the next generation" and identified this basic impulse to teach, guide, and foster the development of the young (Erikson 1983, 52-53). Some volunteers who serve in youth programs see their work as fulfilling this need.

> "Anytime I can see kids growing at anything, there's a self-reward in those things. Seeing those young men and young ladies go out and be successful in their adult lives...It helps to mold them into individuals that can be successful in their adult lives."

> "If you're a volunteer, you can watch young people grow. When you see the child developing and becoming a responsible citizen, it's rewarding."

Quantitative data. Data from the IVE Phase II telephone survey indicates that volunteers increased their knowledge and skills. Eighty-nine percent gained skills in working with others, 88% useful knowledge, 86% leadership skills, 83% organizing skills, 82% decision making skills, 82% problem solving skills, and 68% thought that they had continued their education.

The data indicates that volunteering had increased volunteers' feeling of self-worth (89%), their use of talents (86%), provided recognition (86%), and developed new interests (85%).

The survey also found that 71% thought volunteering had helped them relate to children better. These quantitative findings tend to support the qualitative findings. Also, the Gallup poll (1986, 38) showed that volunteers continued because they enjoyed the work (38%), had an interest in doing the work (37%), and wanted to learn and get experience (8%).

Ideological Gains

Ideological incentives are intangible rewards which result from working toward "something one believes in" rather than working to directly benefit oneself (Widmer 1985, 9). The data from face-to-face interviews revealed that some people volunteered because of particular beliefs. Those beliefs tended to fall into three categories: continuing a family tradition, returning a favor, or fulfilling a community obligation.

Continuing a family tradition. Some volunteers explained that they volunteered because it was a family tradition. Their grandfather did or their father did, so they do too. Some related how their parents had explained the importance of volunteering to them.

One mother of adult children described what she taught her children:

> "I've always told my children 'don't go through this life and have people say you've done no good for your community. Your community is only as good as you work at it. If you don't work for your community, don't complain because someone else hasn't done it for you.'"

Returning a favor. Some of those interviewed indicated that they volunteered to fulfill an obligation because someone had helped them. One woman who had been a 4-H member explained why she volunteered as a leader:

> "People have helped me along the way, and I feel that youth really need a little extra help...gives me a wonderful feeling."

Fulfilling a community obligation. Other individuals indicated that they volunteered because the community needed their assistance. One man who with his wife had been a 4-H leader for 36 years explained why:

> "I feel like everybody should do something to help out their community, and it seemed to be something my wife and I could do to be helpful."

Another woman who had volunteered for a third of a century had this to say:

> "I enjoy working with people. I felt like when my children were in school that I had a responsibility. In their 4-H work, I felt like it was my place to help. If parents don't, who's going to? And I enjoy working with people. I got enjoyment out of it."

Quantitative data. Findings from the IVE Phase II telephone survey showed that 85% thought volunteering had helped them meet the expectations of their family or community, 85% thought it had helped them understand their community, and 73% thought it had helped them solve community problems. Thus, there appears to be agreement between both sets of data.

Material Gains

Material incentives are tangible rewards such as funds, goods, or services. Reasons for volunteering might be related to opportunities, such as an opportunity to make employment-related contacts (Widmer 1985, 9). Evidence of this motivating force was found in the face-to-face interviews. Material incentives fell into three groups: 1) enhance economic gains, 2) enhance opportunities or position, and 3) enhance employment opportunities.

Enhance economic gains. Through volunteering, some people gained information which was of economic benefit. Some farmers donate their time and land for experimental plots. Following is the benefit noted by a farmer who had a test plot:

> "That year, there was no difference (in the test plots). They all had the same thing. That gave me the idea that either you didn't need the chemical or you had to check to make sure you did need them. It's more cost effective to use nothing."

Enhance one's opportunities or position. Some volunteers said volunteering enhanced opportunities. Following are examples of what they said:

> "Anybody who sees an opportunity to better his knowledge or position in his business is a fool not to do something like that."

> "I find that the more I volunteer, the more people I know, the more things I can do...it gives me more opportunities."

Enhance employment opportunities. For some, volunteering was seen as a means to enhance employment opportunities at a later date, to keep in touch with their field, or to explore opportunities. One man described why his wife volunteers:

> "It's good for my wife. She spends 90% of her time surrounded by the children, and she finds out all kinds of good stuff that's going to help her with her career down the road. It helps her with her skills; it helps her get away."

Another person said:

> "I've enjoyed it. Originally, I did it with my future in mind, so that I could teach or go into Extension work. So, this would give me an opportunity to find out some of the things they do."

Quantitative data. The IVE Phase II telephone survey with volunteers resulted in findings similar to those obtained from the face-to-face interviews. Forty-five percent thought volunteering had helped them manage their own finances; 50% thought it had made them more effective in their work; 47% replied that it had helped them make useful contacts in their work; and 32% noted that it helped them prepare for a job or start a business.

Multiple Gains

A variety of statements from volunteers suggest that they often receive more than one reward from their volunteer activities. Volunteers described combinations of gains:

> "Volunteering starts with a need to get out and be with people, to feel useful, and to find out those talents you didn't even know you had."
>
> "I think some people enjoy getting out; to better themselves, educate themselves. It gives them a broader outlook."

CONCLUSIONS

Several conclusions can be reached from this data.

1. **A wide range of gains are received through volunteerism.**

    - **Volunteerism produces social gains.** Volunteer activity helps satisfy altruistic needs, the need to belong, and the need to have close family ties.
    - **Volunteerism yields developmental gains.** Volunteers may fulfill the need to acquire and use knowledge; to develop leadership and communication skills; to improve self-esteem; to achieve a sense of achievement and self-confidence; to compensate for work roles; and to guide and foster the development of the next generation.
    - **Volunteerism brings forth ideological gains.** Volunteers have an opportunity to practice their beliefs, whether those beliefs have to do with family traditions or expectations; to fulfill an obligation to return a favor because they had been helped by others; or to act upon the belief that they need to help their community.
    - **Volunteerism provides material gains.** Volunteers may enhance their economic situation because volunteer activities can help them gain information which is of economic benefit; they may enhance their position or opportunities; or they may enhance their employment opportunities.

2. **Volunteer activity can help individuals fulfill more than one need.** This is apparent in the high percentage of individuals who responded positively to many of the Likert-type items. A few quotations used in this paper illustrate how more than one need is met. For example, one respondent both made friends and helped others, another learned a skill and gained self-esteem, and another enhanced employment opportunities and met social needs at the same time.

3. **Some gains are more prevalent than others.** No attempt was made to determine the frequency of gains from the qualitative data. However, the quantitative data suggests that many people achieved social, developmental, and ideological gains because of their volunteer activity. Material rewards were less frequently achieved.

    There were some differences within the various areas of gain.

    - Volunteer activity was more likely to help volunteers meet altruistic and belonging needs than achieve the gain of family closeness or family enhancement.

- Volunteer activity was more likely to help individuals achieve a feeling of self-worth, develop skills in working with people, to use their talents in new ways, to develop leadership skills, and to learn useful knowledge than to develop decision making and problem solving skills or to continue their education.
- Volunteer activity was more likely to help individuals meet the expectations of family or community and to understand their communities than to feel they helped solve community problems.
- Volunteer activity was more likely to help individuals be more effective in their work and to make useful contacts than to help them manage their finances or prepare for a job or start a business.

4. **Volunteers' needs may change as their personal situation changes.** For example, the volunteer who contributes in order to make friends in a new community may have other needs once new friends are made. Or the young mother who volunteers to provide an activity for her children will have other needs when her children are grown. The person who volunteers to make employment contacts will have other needs once desired employment is attained.

PRACTICAL APPLICATION

1. **Individuals are likely to have a need to seek different gains at various times in their life cycle.** Following are some examples:

   - A volunteer experience for those who are new in a community may be a way to fulfill the need for belonging.
   - Volunteering for a youth program may help an employed mother achieve "family enhancement."
   - Volunteering may help people interested in gaining knowledge or learning a particular skill.
   - Volunteering at a task very different than one's employment can provide a creative outlet, relief from stress, or variety, thus providing "job compensation."
   - Generativity, the need to guide and foster the next generation by those in mid-life, can be met by volunteering with youth programs.
   - Alumni of an organization may want to "repay a debt" by volunteering.
   - Those seeking new employment opportunities might use volunteerism to gain insights or make contact.

   Recognizing these needs and benefits may help volunteer coordinators recruit and retain volunteers.

2. **Those who coordinate volunteer programs need to be cognizant of how individual needs are met by volunteerism.** Keeping in mind how volunteerism can benefit the individual may be a more useful approach for retaining volunteers than focusing on how the volunteer can help an organization or agency. For example, providing opportunities for social contacts and for acquiring and using new skills may help meet needs held by many. Encouraging volunteers to take on greater responsibility or carry out a new task may result in a feeling of greater self-esteem. Being alert to those with special needs such as the employed person who want variety from tedious employment or a newcomer in a community who wants to make new

friends may encourage volunteers to remain with an organization or agency if the volunteer coordinator can provide tasks which meet such needs. Volunteers will be more satisfied when an agency examines volunteer tasks, roles, and positions and designs them in such a way that each volunteer gains some personal benefit as well as carrying through the work that helps others.

FUTURE RESEARCH

Understanding how volunteers gain from their volunteer activity is only a first step in working with volunteers. Other questions need attention so the effectiveness of volunteer activity can be enhanced.

1. **To what extent do the the findings from Extension apply to other volunteer situations?** These results are from an agency which puts a high emphasis on volunteers teaching and sharing information and developing their leadership ability. Would findings be similar from other agencies with similar or different programs?

2. **Which are the most important gains, and for whom are they the most important?** Often, studies allow volunteers to respond favorably to several possible gains. This approach does not tell one which gain is viewed as the most important. Thus, the use of a forced comparison or comparative rating of gains could aid in understanding which gains are most important to respondents. Secondly, this type of research could be used to explore for whom various gains are most important.

3. **Are there clusters of results which fit together, and for whom do they fit together?** Do some benefits seem to fit together? Do developing leadership skills and self-esteem fit together? Do altruistic needs and a need for belonging fit together? Are some clusters more relevant for persons with particular characteristics?

4. **To what extent do volunteers recognize benefits at different times in a volunteering cycle?** Reactions to a list of benefits before taking a volunteer position, during a volunteer position, or when leaving a volunteer position would provide comparative reactions from the same volunteers to different specific tasks or different volunteer positions. It could also provide information on expectations, actual gains, and reasons for leaving.

5. **Is it beneficial to agencies for volunteers to recognize gains from volunteer activity?** If volunteer coordinators work with volunteers to help them consciously realize the benefits of volunteering, will it help them have greater satisfaction as volunteers? Will it help them continue as volunteers? Will it help volunteers recruit new volunteers?

6. **Could the framework used for this study be developed to help volunteers recognize gains from volunteering?** Sometimes people are not conscious of particular needs or how they meet those needs.

7. **Could the framework of gains used for this study be developed to help inventory new volunteers?** If volunteer coordinators were clearly aware of the interests and needs of new volunteers, they could use such information to place volunteers in roles conducive to meeting their individual needs.

FOOTNOTES

[1] The Implications of Volunteerism in Extension (IVE) study conducted by the University of Wisconsin-Madison Department of Continuing and Vocational Education used a national sample of 315 counties. The study examined how county Extension staff and community volunteers work together and the impact on the Cooperative Extension Service, Extension staff, volunteers, clientele, and communities.

The Cooperative Extension Service was initiated by Congress in the early 1900's to disseminate and encourage the use of information related to agriculture, home economics, and related subjects. It is jointly funded and maintained by the USDA, by Land Grant universities, and by county governing bodies. The average county Extension office employs three professionals.

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THE INDEPENDENCE OF THE INDEPENDENT SECTOR

by

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The Independence of the Independent Sector

Susan Rose-Ackerman

I. Donors vs. Charity Managers

In discussing a recent large grant from a prominent foundation to an environmental organization, one observer applauded the contribution because it would permit the group to establish an endowment and thus avoid dependence on the desires of donors.[1] Another recent commentator laments the "Achilles' heel of donor dependency" that may lead to "goal deflection" for nonprofit managers.[2] These examples point to what I believe to be a widespread phenomenon in the nonprofit charitable sector, namely a tension between the goals of managers and the desires of those who provide funds whether they are private donors, public agencies or clients.[3] They raise questions of just how "independent" the independent sector should be, and who they should be independent of. These issues have a special salience in the current climate as government support falls, changes in marginal tax rates reduce the attractiveness of giving, and charities turn to more aggressive and costly fundraising techniques combined with an increase in both fee-for-service activities and profit-making outputs.[4]

The charitable services provided by nonprofits vary along a large number of dimensions -- dimensions which are observable and generally known to potential donors even if they are often intangible. Charities may be affiliated with one or another religious group. Thus in the United States Jewish, Catholic and Protestant groups operate schools, hospitals, nursing homes, foster care agencies and a wide range of other charities. A similar pattern is found elsewhere in the world.[5] Nonprofit managers may also subscribe to different theories of how to help needy people. Thus private programs for the homeless might specialize in providing psychoanalytic therapy along with food and shelter, might emphasize job training, or might simply concentrate on keeping as many people as possible off the streets. Charities also differ in their method of selecting clients. Some, run by professionals, may look for "interesting" cases. Others might try to locate the most needy subjects.[6] Finally, either because of philosophical differences or for other reasons, managers may vary in the types and amounts of capital and labor they use.[7] Some may emphasize state-of-the-art equipment, while others emphasize warm and pleasant surroundings. Some have a large professional staff; others rely on volunteers and a paid staff without graduate degrees but with a deep commitment to the organization's mission.

While private for-profit firms also produce a wide variety of goods and services, I believe that nonprofit managers are much more directly interested in the character of the services they provide than are for-profit managers. Charity managers are trying not only to satisfy donors and clients but also to please themselves through their choice of service mix. This is not an obvious case of "shirking" i.e. overusing expense accounts, sleeping on the job, purchasing expensive office furniture. Instead, the managers wish to use the nonprofit to put into practice their own ideas about how best to help people. Thus, I hypothesize that a selection mechanism is at work.[8] The people attracted to managerial positions in the nonprofit sector are those who care relatively little about financial gain and relatively highly about putting their own ideals into practice. They realize that money is necessary to pursue their goals, and institutional survival may be a necessary precondition to furthering their aims, but financial health will be traded off against their own preferences for service quality.[9] Such managers may well try to operate an efficient operation in the sense of keeping perquisites to a minimum and seeking to avoid waste but their choices of service quality may not perfectly match the preferences of either donors or clients.

One might suppose, however, that if donors are dissatisfied with a manager's choices, then they will simply donate to more appealing charities which solicit gifts from them thus eliminating the tension between donors and managers. Charities unable to satisfy donors simply go out of existence. While this check is important, it may not lead to a perfect match of donors with institutions. An imbalance can persist if there is a scarcity of nonprofit entrepreneurs combined with fixed costs of establishing new organizations. In fact, given the low levels of financial rewards, it does not seem implausible to assume that not all points in the ideology-service spectrum will be provided.[10] For example, donors to universities might prefer a practical orientation to the curriculum because they are practical people themselves. Such people, however, would never consider managing a university themselves because of the financial sacrifice required. Instead, those who choose to manage universities may largely consist of people who do not share these donors' interests. The managers must juggle their interest in the organization's financial health with their beliefs in its proper mission.

In the current environment of cutbacks in government support for nonprofits this perspective on the sector can help explain the interest among nonprofit managers in "making-up" for the loss in government support.[11] First of all, an emphasis on ideology is important because if net revenue or output maximization were the organization's only goal, it would always be looking for new ways to raise funds. A cutback in public support would not spur any extra effort unless it raised the marginal productivity of fundraising. (In fact, if public money were awarded in the form of matching grants, the marginal productivity of fundraising could well fall when grants are cut.) Second, if managers care directly about service quality, they will not necessarily maximize revenue or output if this would require some sacrifice of the managers' interest in quality. Third, if private donations are more constraining than government money, then in times of stable or growing government support the nonprofit may concentrate on providing "high-quality" charitable output as defined by the manager and will not worry about pushing for the last dollar available from donors. However, if government grants fall, managers may become more interested in increasing revenue from other sources and may, as a consequence, seek to be more accountable to donors and clients. My perspective can, then, explain why the current interest in expanding the revenue base of nonprofit organizations coincides with a drop in their public support, and it also suggests that a corresponding shift in service mix will occur.

II. Nonprofits' Response to Government Funding Cuts: Data Deficiencies

But what has, in fact, happened in recent years as government support for nonprofits has fallen? While the basic tradeoffs seem to be well understood both by scholars and nonprofit managers,[12] data on the nonprofit sector unfortunately provide no direct evidence either on donors' perceptions, or on the underlying goals of nonprofit managers and entrepreneurs and the strategies which they actually follow in the face of declines in public support. We have no systematic data on changes in fundraising practices or service quality.[13] Broad-based information from an Urban Institute survey of over three thousand organizations in sixteen communities (omitting hospitals and higher education) measures the overall dollar changes but does not record the portion of revenues used to provide charitable services.[14] Yet an accurate view of the health of the sector requires one to subtract fundraising costs from donations. Since the available evidence does suggest that both fundraising and promotion are costly,[15] only a portion of the loss in services from government cutbacks might be made up even if revenues hold constant.[16] The importance of this concern is suggested by the Urban Institute survey which reports that 56% of the organizations they contacted were devoting more resources to fundraising as a result of cuts in government support (Salamon, Musselwhite and DeVita, 1986, Table 9).

The inadequacies of the data thus suggest areas for further empirical and theoretical research. I consider five research priorities: fundraising costs, changes in service mix, growth of profit-generating activity, links between government support and private gifts, and productive efficiency.

A. Fundraising Costs

As a first step, scholars should attempt to measure the marginal fundraising cost of obtaining increased donations on a sector by sector basis. Basic data on fundraising have been compiled by Weisbrod from IRS 990 files (Weisbrod and Dominquez, 1986) but this source measures total fundraising and permits one to estimate only the ratio of total fundraising to total contributions. It cannot be used to estimate marginal productivities directly. Weisbrod and Dominquez's (1986) own study has, however, ignored this difficulty. They find that donors respond to the net "price" of donations a variable that takes into account both marginal tax rates and the share of fundraising in total revenues. Donors are hypothesized to act as if the marginal productivity of fundraising equals the average productivity. In contrast, Steinberg (1986), using the same data source but a different functional form, finds that the implicit price of giving is not generally related to the average fundraising share. Steinberg hypothesizes that this result shows that donors perceive the difference between the average fundraising share and the impact of a marginal dollar on the nonprofit's fundraising budget. While neither author attempts to measure the marginal productivity of fundraising from the nonprofits' point of view, their contrasting models of donor behavior, in fact, have sharply different implications for optimal fundraising strategies.[17] Thus charities that believe Steinberg's formulation would suppose that contributions will never fall with increases in fundraising expenses, and that the share of fundraising costs in total revenue is irrelevant to donors. In contrast, nonprofits that believe Weisbrod and Dominquez have captured donor attitudes will worry that the marginal productivity of fundraising could be negative if it raises the average share too high.

But Steinberg's and Weisbrod and Dominquez's studies are both limited by their failure to consider the interactions between charities in their quest for funds. As I have shown in a previous paper, however, an analysis of fundraising must come to terms with the destructive potential of the competition for funds. The marginal cost of fundraising will depend upon the competitiveness of the charitable sector. With low entry barriers and vigorous competition, the result could be a charitable sector that spends a very high proportion of its resources on fundraising and produces few charitable services.[18] No empirical analyses of fundraising has, however, tried to take account of these possibilities.

Unfortunately, direct public regulation of the share of revenue devoted to fundraising will not provide an effective check. Since this ratio depends upon the success of a charity's efforts, it is not entirely under a charity's control. With high levels of competition for charitable dollars the ratio of costs to revenues can become very high, in spite of regulations, as organizations compete for dollars. Thus entry barriers may be a necessary condition for the existence of a healthy nonprofit sector especially one that is largely dependent on private gifts. But although entry barriers permit positive levels of charitable services, they also reduce the ideological diversity of the nonprofit sector. The tradeoff between the variety and volume of services is a central policy dilemma.

To some extent united funds help resolve this problem. The funds' privileged access to the payroll deduction systems at many workplaces gives them some limited monopoly power but not enough to prevent disintegration if donors are very unhappy with the package of services provided by member agencies. Thus if ideological differences are important, either dissatisfied donors can give to nonmembers or else they can make separate gifts to desirable member agencies. Funds survive by providing a low cost, ideologically homogeneous package of charities.[19] Thus the united funds' limited monopoly power can perhaps be justified as a realistic compromise between preserving ideological diversity and preventing the competition for gifts from absorbing a large share of charitable resources. This is not to say, however, that the admission procedures and solicitation practices of united funds are entirely benign or that their monopoly power should be increased. United funds impose real costs on nonmember charities and on donors with minority preferences.[20] Thus, the funds' procedures for admitting new charities deserve careful scrutiny to assure that savings in fundraising costs do not overly limit ideological diversity.

B. Changes in Service Mix

As a second priority, empirically oriented scholars ought to try to find out if nonprofit organizations do change their service mix in response to cutbacks in public funding and explore the consequences of these shifts for those who use the charity's services. Can the shifts that occur be understood as attempts to satisfy donors or as a way to attract more paying clients? How do arts organizations, whose donors are also clients, differ from social welfare charities where the two groups are largely distinct? The existing data are too aggregated to provide answers to these questions although they do supply some useful background. The most comprehensive work is the Urban Institute's study of the recent declines in public support on various portions of the nonprofit sector.[21] Tables 1 and 2 summarize their results. According to the UI data in Table 1, as government grants fell in 1981-1982, both private giving and fees grew in importance but fees increased by almost twice the increase in private giving. Table 2 documents the wide variety of responses by subsector. Health care experienced a relatively small fall in government support at the same time as this sector ought to have been in a relatively strong position because of the aging of the population. In contrast, education and research experienced a larger proportional drop and one that will be difficult to make up through fees because of declining student populations. Finally, most hard hit were a collection of social services where massive increases in privately-paid fees would largely undermine the charitable purposes of these organizations. Clearly increases in private giving have been insufficient to match the fall in public support, but my discussion suggests that the impacts of cuts may be even greater not only because of the costs of private fundraising discussed above but also because of shifts in the service mix needed to attract more paying customers and private donors.

C. Profit-Generating Activities

Third, we need more information on the profit-generating activities of nonprofits. IRS 990 data indicates that in 1982, 2.5% ($5.0 billion) of all nonprofit revenue took the form of "net income from sales" as distinguished from program service revenue which was 63.4% ($124.4 billion) of revenues. The net sales income percentages are 4.1% for hospitals, 0.8% for schools and 1.3% for other types of 501(C)(3) organizations excluding foundations (Hodgkinson and Weitzman, 1986, Table 4.19, p. 139). Except for the few organizations reporting unrelated business income, no further breakdown is available.

Small business groups are quite concerned by what they see as "unfair competition,"[22] but a careful analysis of the issue reveals that the "unfairness" is difficult to document in a convincing way if we rule out competitive pressures that reduce excess profits. Its existence depends on barriers to exit in industries with a large unanticipated influx of nonprofit investors. In fact, I would argue that to the extent such "unfairness" can be documented, the existing unrelated business income tax in just the wrong way to approach the problem (Rose-Ackerman 1982a). Nevertheless, however one evaluates the competition issue, we need to know a good deal more about what is going on. The proliferation of consultants specializing in assisting nonprofits diversify into lucrative businesses and of programs to train nonprofit managers suggests a growth of interest in financial health and businesslike methods. But we simply do not know enough about just what is happening to evaluate the current situation realistically.[23]

D. Links Between Government Spending and Private Contributions

Fourth, the complicated links between public subsidies to nonprofits, government social welfare spending generally, and private contributions to nonprofits need to be explored. Does a fall in government support for a *particular* charity stimulate or discourage private giving? Clearly, the charity's managers will wish to attract more gifts but will fundraising efforts be more or less productive? A priori arguments can be made on either side. Thus private giving could increase if donors feel that the "need" is greater and if managers adjust charitable output to better reflect the tastes of private donors. Conversely, gifts could fall if government support took the form of matching grants, if donors prefer to "buy-in" to a large successful charity rather than to a smaller, struggling one, or if government grants were associated with more stringent financial and programmatic ability requirements.[24] IRS 990 (Weisbrod and Dominquez, 1986) and California state data (NCCS, 1986) record fundraising expenditures as well as government support, and so could be used to examine this issue, but they have not as yet been employed for this purpose. The contrasting approaches of Steinberg (1986) and Weisbrod and Dominquez (1986) could then be applied to examine this question. Since a fall in grants will raise the fundraising share *ceteris paribus*, Steinberg would predict that this will have no independent impact on giving while Weisbrod and Dominquez (1986) would predict a negative impact because the "price" of output will seem to have risen.

The other aspect of this subject concerns not grants to particular organizations but overall government social welfare spending. These budget items do appear to be inversely related to private giving but the "crowd-out" is not complete. Thus the Urban Institute (Salamon 1984) found that private gifts and fees did not make up for government cuts in social welfare spending in 1981-1982. Similarly in a cross-section study based on data from the mid-seventies. Schiff and Weisbrod (1986) found that direct government spending on welfare services was inversely related to both contributions and sales, but only 12% of reductions in government spending were compensated for by increased gifts and sales. Donations to and sales by nonprofits, however, were lower when direct cash transfers to the poor were also low. Low levels of direct government payments to nonprofit providers reduced the number rather than the average size of organizations.

E. Productive Efficiency

The final empirical issue concerns the efficiency of nonprofits. Are property-rights theorists correct to argue that nonprofits will be productively inefficient? These writers emphasize the negative consequences which occur when no one has a property right in the organization's residual earnings. Therefore, they expect to find more bureaucratized control mechanisms, more shirking, and higher costs. Managers may overpay themselves, relative to opportunity cost, may have plush offices, hire their relatives and discriminate against groups they dislike on personal rather than productivity grounds. Here a considerable body of work exists, but it by no means points all in one direction. Some studies of industries, such as health insurance, where nonprofits and for-profits coexist have confirmed the hunches of these writers[25] while other studies have found that nonprofits are more efficient.[26] Furthermore, in industries such as health care where both forms coexist, the overall competitiveness of local markets may be as important as organizational form in determining performance.

The two groups of researchers who have studied this latter phenomenon have, however, proposed contrary hypotheses concerning the role of competition which depend on the nature of the relationship between professionals (e.g. doctors) and the organizations in which they work (e.g. hospitals, health maintenance organizations (HMOs)). Wilson and Jadlow (1982) argue that hospitals compete by seeking to persuade doctors to use their services. They do this by purchasing very expensive state-of-the-art equipment with the result that markets with large numbers of hospitals are less efficient than those with small numbers as hospitals seek to attract doctors with overly elaborate diagnostic and treatment facilities. In contrast, for HMOs, where patients, rather than doctors, make the basic consumption decisions, Schlesinger et al. (1986b) hypothesize that competition will lower prices and increase pressures for efficiently. Each group of scholars found support for their hypothesis in the empirical studies of their respective industries.

In general, no broad critique of the nonprofit form is possible on the grounds of comparative efficiency, however, since the major strength of nonprofits often lies in producing services not available from for-profits. But while nonprofits may be necessary for the service to be produced at all, they may in some situations also be technically inefficient. Then ironically, donations by individuals who place their trust in the nonprofit form make things worse rather than better. In effect, "shirking" is one possible use of donations and other revenues induced by trust.[27]

But let us return, where we began, to ideology as a motivator for managers. Then we can isolate a further reason for donors to prefer ideologues to other sorts of charity managers even if managers and donors do not have congruent beliefs. Those with philosophical commitments to the services they are providing are less likely than others to use resources to shirk or to provide private benefits for themselves.[28] Thus not only would we expect those managers with strong philosophical commitments to choose the nonprofit over the for-profit sector but we would also expect donors to favor charities with such managers over other types of donation-seeking nonprofits. But while these hypotheses seem plausible it is in practice difficult to distinguish empirically between motives for donations based on tax benefits and those based on the benefits of the organization form.

III. Conclusion

I have suggested that an appreciation of the possible conflicts between donors, charity managers, clients and public agencies is central to a sophisticated understanding of the nonprofit sector and provides a productive starting point for analyzing the sector's response to government funding cutbacks. Unfortunately, while I believe that this perspective is broadly consistent with the facts, we do not have enough data on the right variables to be able to test its validity. I have, however, sketched out the sort of information that would be required to make fruitful analysis possible and suggested how it could be linked to the more limited data sources that currently exist.

NOTES

1. New York Times, Saturday, December 13, 1986. The grant was from the MacArthur Foundation to Worldwatch.

2. Kramer (1985) p. 19.

3. For other applications of this perspective see "Introduction" in Rose-Ackerman (1986), Part V of James and Rose-Ackerman (1986) and Rose-Ackerman (1981, 1982a).

4. See Tables 1 and 2.

5. See e.g. James (1987) study of nonprofits in a variety of foreign countries and some of the case studies in Young (1985).

6. Rose-Ackerman (1981).

7. James and Rose-Ackerman (1986) pp. 39-41. In a study of a broad range of British arts organizations, Gapinski (1980, 1986) found that both artists and capital are used in inefficiently large amounts indicating that quality is higher than the profit-maximizing level. In another effort (1984) he found that the British Royal Shakespeare Company produces more output and sets lower prices than would a profit-maximizing firm.

8. For a similar perspective see Schlesinger et al. (1986a), Young (1983), Weisbrod et al. (1978), and Weisbrod (1986).

9. Young (1983, 1985), James (1983). See also Etzioni (1975, p. 284). In discussing the accountability of hospital managers he discusses the tradeoff they face between their own values and outside pressures from donors, patients, doctors, etc. Hansmann (1986, p. 25) in a study of university endowment funds argues that a large endowment protects "a university administration and faculty from the need to cater too closely to the desires of those who ultimately provide the institution's income."

   The Wolfenden Committee (1978, pp. 150-151) which studied the charitable sector in England was sensitive to this trade-off: "The voluntary sector ... must go further than mere [financial] accountability, and accept that the funder too has rights and duties to his own constituents." Conversely, the need to raise funds can cause a charity to downgrade the interests of its clients. The Committee quotes a memorandum from the Howard League for Penal Reform which worries that "a charity which runs homes or hostels ... may feel pressed into seeking publicity which is distasteful to the residents in them" (p. 151).

10. Rose-Ackerman (1981).

11. For an economic model that develops these ideas precisely, see Rose-Ackerman (1987).

12. Baumol and Bowen (1966), Gapinski (1980, 1984, 1986), Kramer (1985), Netzer (1986), Salamon (1987), Young (1983, 1985).

13. Salamon, Musselwhite and DeVita (1986, Table 9) found that in response to government cutbacks 17% of their survey eliminated specific programs or services, 12% reduced the number of clients served, 10% tightened eligibility requirements and 10% reduced service levels. Their data contain no more detail than this however.

14. Salamon (1984).

15. See Weisbrod and Dominquez (1986) and *Philanthropy Monthly*, May 1977, pp. 19-26; June 1977, pp. 14-18; July 1977, pp. 31-33; August 1977, pp. 7-11. The articles in *PM* discuss the fundraising data gathered by the National Council of Better Business Bureaus and the National Information Bureau.

16. Salamon (1984)'s data indicate that overall nonprofit revenues have held constant but this aggregate result is consistent with considerable variation across sectors.

17. Paton (1986), in a paper designed to encourage development officers to distinguish between average and marginal costs, summarizes studies of fundraising costs in higher education. He notes, however, that all of this work measures average, not marginal, costs.

18. Rose-Ackerman (1982a).

19. Rose-Ackerman (1980).

20. Id.

21. Salamon (1982).

22. U.S. Small Business Administration (1984).

23. The Center on Nonprofit Entrepreneurship at New York University is concerned with this issue but has not as yet gathered any systematic data.

24. Rose-Ackerman (1982a, 1987).

25. The studies are summarized in Steinberg (1987).

26. Pattison and Katz (1983), Relman (1983), Schlesinger (1985), Schlesinger et al. (1986b).

27. James and Rose-Ackerman (1986, 38-39).

28. For similar reasons voters may prefer candidates with strong beliefs. Rose-Ackerman (1978, 57-58)

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TABLE 1

CHANGES IN REVENUE FOR THE AVERAGE NONPROFIT AGENCY, 1981-1982, BY SOURCE

Source	Income from Source, FY 1981 (In thousands of dollars)		Percent of Total		Change in Income from Source, 1981-1982			
					Amount (in thousands of 1981 dollars)		Percentage	
Government	296		41		-18.5		-6.3	
Private Donations	146		20		+ 7.4		+5.1	
Corporations		22		3		+1.3		+5.8
Foundations		24		3		+1.3		+5.2
United Way		38		5		+0.7		+1.9
Religious and other federated funders		19		3		+0.7		+3.6
Direct individual giving		43		6		+3.4		+7.9
Other	276		39		+14.9		+5.4	
Fees, charges		200		28		+13.3		+6.6
Endowment, investments		32		4		+ 1.3		+4.1
Other		40		6		+ 0.9		+2.2
Unallocated		4		1		- 0.6		NA
TOTAL	718		100		+ 3.7		+0.5	

Source: Gutowski and Salamon, The Invisible Sector, forthcoming. Reprinted in J. L. Palmer and I. V. Sawhill, eds., THE REAGAN RECORD, Washington, DC: The Urban Institute, 1984.

NA = not applicable.

TABLE 2

CHANGES IN REAL (INFLATION-ADJUSTED) SUPPORT FOR SELECTED TYPES OF NONPROFIT ORGANIZATIONS, 1981–1982, BY SOURCE
(Percentages)

Type of Agency	*Government*	*Corporations*	*Foundations*	*United Way*	*Religious and Other Federated Funders*	*Direct Individual Giving*	*Fees, Charges*	*Endowment, Investments*	*Other*	*TOTAL*
Legal services	−29	+11	+3	+5	+5	+4	+19	−12	−7	−16
Employment/training	−13	+9	−29	−9	+5	+18	+1	−11	+5	−6
Social services	−9	+1	−2	+4	+3	+4	+4	−3	−6	−4
Multipurpose	−8	+25	−3	+1	+3	+7	+4	+14	−10	−2
Education/research	−7	+2	+14	−3	+7	+7	+3	−1	+5	+1
Housing, community development	−16	+19	+7	−5	+3	+50	+45	+37	+4	+2
Health care	−1	+2	+2	0	−12	−2	+7	+16	0	+3
Institutional/residential care	+4	−4	+34	+4	+11	+23	+5	+9	0	+4
Arts, culture	−1	+3	+8	+4	−2	+11	+9	+3	+5	+6
Mental health	0	+16	−6	−2	+49	−20	+29	+2	+130	+7
ALL AGENCIES	−6	+6	+5	+2	+4	+8	+7	+4	+2	+1

SOURCE: Gutowski and Salamon, *The Invisible Sector*, forthcoming. Reprinted in J. L. Palmer and I. V. Sawhill, eds., THE REAGAN RECORD, Washington, DC: The Urban Institute, 1984.

DRAFT

Nonprofits in a Mixed Economy

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Nonprofits in a Mixed Economy

The economy of the United States is mixed. It includes a private enterprise system, a sizable governmental sector, and, commonly overlooked, a middle ground, the nonprofit sector.

Nonprofit organizations are all around us. We donate money to them. We volunteer our labor to them. We give government grants, tax advantages and postal subsidies to them. Many of us send our young children to nonprofit day care centers, our older children to nonprofit colleges, our sick to nonprofit hospitals. We go to nonprofit museums and zoos. National Geographic Magazine, "Up With People," and the Sierra Club are all nonprofit entities.

So are the Better Business Bureau a nonprofit, as are the Boy Scouts, the YWCA, labor unions, trade associations and, quite likely, the local country club. The nonprofit sector of the economy is large and heterogeneous, and it is growing.

The term nonprofit has several meanings. The one I emphasize is the restriction on what an organization may do with any surplus ("profit") it generates. When an organization may not lawfully pay out its profit to owners or, indeed, to anyone associated with the organization, we have the essence of the nonprofit form of institution.

There are also hybrid combinations of nonprofits with private firms, on the one hand, and with governmental organizations on the other. These are neither entirely private nor entirely public, but have some attributes of each. The post World War II period was one of active experimentation by the federal government with "newer mechanisms whereby programs of national concern can be conducted essentially outside of the federal establishment itself." Such use of private nonprofit organizations by the federal government began with the Rand Corporation.[1] Another example is the Urban Institute, in Washington, D.C., a private nonprofit research organization established by the federal government in the 1960s under the Johnson Administration. At least in the early years, the Urban Institute was funded primarily by the governmental Department of Housing and Urban Development and worked on projects the Department approved.

A more recent hybrid form is a combination of a nonprofit and a for-profit: for example, one of the largest for-profit hospital chains in the nation, Hospital Corporation of America, has formed a nonprofit foundation, the HCA Foundation, which gives grants to other nonprofit organizations.[2]

In another recent institutional innovation, the nonprofit Enterprise Foundation established the for-profit Enterprise Development Company, which has been described as "a tough-minded, business-like real estate development company that specializes in downtown [retail and festival] projects. It is run to make a profit, it pays its taxes. But it[s] ... profits are plowed into programs and projects to aid in eliminating the problems of housing the poor within a generation."[3]

Yet another hybrid is the "joint venture" hospital organized in 1985 by the for-profit firm, National Medical Enterprises, Inc. and the nonprofit Methodist Health Systems.[4]

No simple public policy will suffice for such a mixed collection. It is not clear, either, what society really expects from its nonprofit sector. There are many opinions and assertions about the effectiveness and desirability of nonprofits, but evidence is scarce. Especially limited is information about whether nonprofits are better or worse at achieving certain goals than for-profit firms or governmental enterprises would be.

It is difficult to formulate good public policy without knowledge of what nonprofits actually do, how well they do it, and how they respond to various incentives and constraints. There are many variables involved. To the Internal Revenue Service, nonprofits are a major headache, producing only trivial tax revenues but sizable administrative--and even Constitutional--problems such as whether a university that discriminates against Blacks should retain its nonprofit status. To the courts, nonprofits are an endless source of litigation over such matters as what part of their revenues, if any, should be subject to taxation. To private enterprises, nonprofits are a source of subsidized, "unfair" competition. To the population in general, nonprofits are a continuing source of pleadings for donations as well as outlets for the private expression of social concerns. Are they worth the trouble? The nonprofits regard themselves, however, as socially valuable organizations, vital contributors to a pluralistic society.

There are many misperceptions about nonprofits. One is that nonprofits exist outside the economic mainstream. Their millions of volunteer workers are not counted by the Department of Labor in labor force statistics. Their billions of dollars of contribution to the nation's economic output have not, until recently, been reported separately by the Department of Commerce. Information about what nonprofits do is uncoordinated and difficult to find. Little is reported on any regular basis as to the size or activities of the nonprofit portion of the economy. Even the term "nonprofit" itself is used inconsistently. A major 1982 Census Bureau survey of the service sector illustrates the unfortunate state of statistical information and the low level of importance that is attached to the nonprofit sector. After the survey was designed, a decision was made (because of cost constraints) to omit major groups of nonprofits--such as schools and hospitals--with the result that there is little comparability of this survey with the preceding Census survey of the service sector, in 1977.

Another erroneous view of nonprofits is that they are essentially homogeneous organizations, all guided by public-spirited altruists who seek only to serve the public interest or, conversely, by shrewd entrepreneurs who have found in nonprofits a mechanism for lining their own pockets. Nonprofits, however, are a varied lot.

Another common misperception is that nonprofits exist almost entirely on the donations of the citizenry. This is, quite generally, simply wrong. The variability of the sources of support among nonprofit organizations is enormous, as is the importance of non-donated revenues.

A related misperception is the tendency to think of nonprofits as somehow not subject to the economic constraints that apply to the rest of the economy. Some people believe that nonprofits do not respond to changes in prices or in demand, that consumers of services from nonprofit organizations do not respond to the prices of their services, and even that prospective donors are not influenced in the size of contributions by the prospect of tax deductibility. These, too, are wrong. Not only does charitable giving of money respond to the same kinds of factors that influence markets for "ordinary" commodities--prices, incomes, seller reputation, and so forth--but so does giving of time (volunteer labor). Although monetary revenues are certainly of enormous importance to the vitality of nonprofits, so, too, is the vast amount of non-monetary contributions of volunteer labor services. As policymakers consider alternative mechanisms for enhancing (or, perhaps, limiting) the resources flowing into the nonprofit sector, they need to recognize that a wide array of governmental decisions influence that flow, even when the decisions seemingly are not dealing with that part of the economy.

The origins of organizations that are neither government nor private profit-oriented are obscure. Whatever the motivations may have been for their development, they have been around for centuries. Their early existence had nothing to do with tax considerations, for the history of private nonprofit organizations long antedates the existence of taxes on personal income and on corporate profits and, hence, of tax-deductible benefits for charitable donations. Indeed, in certain respects the nonprofit form of enterprise even antedates governments.

Four centuries ago, in 16th-century England, governmental provision of civilian goods or services was modest. Yet voluntary private "philanthropies" (today we would call them nonprofits) were providing funds for a wide range of organizations and activities that are now regarded as the natural responsibility of government: schools, hospitals, non-toll roads, fire-fighting apparatus, public parks, bridges, dikes and causeways, the digging of drainage canals, waterworks, wharves and docks, harbor cleaning, libraries, care of prisoners in jails, and charity to the poor.[5] Voluntary giving to nonprofit organizations even included support for such causes as "houses for young women convinced of their folly."[6] More recently, in 19th century America we find such nonprofits as the Anti-Horse Thief Society, formed in 1884 apparently to "supplement" inadequate governmental efforts.[7]

Choosing Among Forms of Institutions

Every society makes choices about what forms of institutions it will rely on to achieve its socioeconomic goals.[8] The search for more efficient forms of institutions, including the invention of new hybrids, is not limited to the United States. The year 1985 saw the socialist economy of Hungary introduce "new management forms" that combine state ownership with elements of private co-operatives. The reforms involve more self-governance and less state control by the workers in state enterprises, toward the goal of stronger managerial incentives.[9] The new institutional forms remain subject to central governmental price-setting, but they have "autonomous, comprehensive budget and banking relations ...."[10]

Although the pure private enterprise and the government institution have many virtues, they also have serious limitations. For example, private enterprise, driven by profit-seeking behavior, cannot be relied on to undertake activities such as pollution control and consumer health and safety protection that would be unprofitable, even if consumers valued them highly. And government enterprises face political pressures that make them excessively responsive to well-organized demands from industry and other pressure groups, but far less responsive to the interests of poorly-organized groups such as consumers.

In the U.S., the limitations of both government and private enterprise are drawing attention to nonprofits. Although they, too, have drawbacks, they also have unique features that could enable them to serve important social aims that neither the private sector nor the government can fulfill very well.

The unique nature of the nonprofit economy and its relationship (both competitive and complementary) with the private sector and the government are the subject of this book. There are four major themes involved in the discussion: informational inequalities, diverse demands, the relationship between revenue and outputs, and the interdependency of the for-profit, nonprofit, and governmental sectors of the economy.

The efficiency of an institutional form depends to a large extent on its informational inequalities of a market. Such informational assymetry in a market can involve either underinformed consumers or informed consumers who want a "free ride."

When consumers are well informed relative to suppliers, the private sector is usually the institution of choice. But when consumers are underinformed relative to suppliers, the private sector often performs badly. In such areas as medical care, day care, elementary and secondary education, charity, and foreign aid, consumers are typically in a poor position to determine the quality of output, and thus can be ill-served by opportunistic sellers.

Informational assymetry in the reverse direction is the source of the "free-rider" problem. Consumers, in the aggregate, may highly value particular services such as national defense, clean air and water, and aid to the poor and needy. But individual consumers may find that self-interest dictates acting as if they cared little, hoping that others will pay for the services. When such collective-type services are involved, consumers do not have the incentive to reveal their true willingness to pay if they feel that they can benefit from others' contributions.

Both kinds of informational inequalities thus permit opportunistic behavior, which causes market "failure"--markets that do not work efficiently. The nonprofit and governmental forms can mitigate such behavior by virtue of their constraints on the distribution of profits. The cost of this, however, is a diminution of incentives to produce efficiently by managers who cannot lawfully capture the resultant profits. In other words, there is a trade-off between informational inequalities and incentives. The nonprofit sector includes organizations that provide services involving both types of informational problems. Some provide services for which lack of consumer information is a central issue; they are the kinds of services traditionally identified with the private sector. They can be sold to individuals but with a consumer-protection or informational element added. Nursing home services are an example. Collective-type services are traditionally identified with the public sector--for example, basic scientific research. There are also nonprofits, such as country clubs, that are not involved with informational inequalities.

The second of the four themes is that consumers have diverse demands. In a democratic society in which government tends to be responsive to majority wants, there is a need for institutions that can respond to the demands of persons who feel intensely about particular collective-type activities such as the preservation of Carnegie Hall, AIDS research, or helping native Americans.

The third of the four themes is that there is a close relationship between an organization's sources of revenue and the nature of its outputs. This is true for all organizations, whether governmental, for-profit, or nonprofit. An organization that relies heavily on income from sales, for example, cannot engage in environmental preservation activities that, however valuable socially, cannot be sold profitably. An organization that relies on donations to support aid to the poor must tailor the form of that aid to the wants of prospective donors, who are, in effect, the economic demanders of the organization's services.

The fourth theme is that the nonprofit sector of the economy is interdependent with the governmental and for-profit sectors. Both the outputs it provides and the revenue sources it uses bring it into competitive as well as complementary relationships with the other forms of institutions. When government reduces personal income tax rates, for example--perhaps to stimulate economic growth or, as was the case in 1986, to simplify the tax system--contributions to nonprofits decline. And when nonprofits respond by extending their activities in search of additional revenues, they come into increased competition with the private sector.

Public Policy Issues

Public policy toward nonprofits--to the extent there is one--can be described most aptly as confused. It simultaneously encourages and discourages nonprofits--subsidizing them and restricting them, proclaiming their virtues and distrusting them. This is not surprising, since there is little consensus as to what goals society should achieve by fostering nonprofits. And without a consensus there cannot be tests of whether goals are being reached or even approached.

I believe that there should be a policy debate to help shape thinking about the role of nonprofits in our mixed--and changing--economy. The first step in such a debate is to clarify the issues. Although there are many, they can be classified in two categories. What kinds of activities should nonprofits engage in? How should nonprofits be financed?

To identify the appropriate range for nonprofit activities, we must recognize both the strengths and limitations of the nonprofit form of institution as well as of other forms. There is little point in encouraging nonprofits to compete with proprietary firms in activities for which the motivating force of profit spurs sellers to be efficient and innovative. There is little point, either, in encouraging nonprofits to compete with government in meeting demands for collective goods when there is broad consensus as to the types and qualities of such goods that should be provided. But when private markets fail, perhaps because of external effects or informational asymmetries, and when governments fail, perhaps because of great diversity of consumer demands for collective action, there is a justification for the nonprofit economy. It is a justification, though, that may be more potential than actual. The possibility of misusing the nonprofit form is real; costs of monitoring nonprofit activities are great enough that the potential social benefits of this institutional form can be eroded by the same types of opportunistic seller behavior that gives rise to failures of the private market--unless their are safeguards.

Along with decisions about which activities are appropriate for nonprofits, there must be decisions on how nonprofits are to be financed. Should these organizations be permitted to seek out profitable activities so as to permit using the profits to subsidize their unprofitable, collective-good activities? If so, what limits should be imposed, in recognition of the effects of their profit seeking on the private economy? If not, are we willing to accept a reduced level of nonprofit sector activity? Should nonprofits be restricted to the activities for which they have been granted tax-exempt status, and restricted even further to financing through donations? In any event, how broadly or narrowly should a particular nonprofit's tax-exempt purpose be defined, and what special restrictions, if any, should be imposed on nonprofits' fund-raising that do not apply to other forms of institutions? For example, should there be an upper limit on fund-raising expenditures--as have existed in many states--and should fund raising through direct mail advertising receive different subsidy treatment than other fund-raising techniques, as is now the case?

Deciding on the proper realm of nonprofit activities and deciding on the set of revenue mechanisms are not matters that can be resolved once and for all time. Just as the forces generating failure of private markets and governments are changing, and, more precisely, just as the character and extent of informational problems in the economy change, so do the answers to the two policy questions. What should nonprofits be producing? How should they be financing those activities?

There are, of course, subsidiary questions to be resolved. A significant question is administration. What kind of governmental agency should regulate the nonprofit economy, deciding whether a specific applicant should receive the privileged status and deciding whether violations of policy have occurred?

The institutional-choice perspective provides the best framework for analyzing the nonprofit sector of the economy. Any public policy based on the assumption that the nonprofit sector is essentially separate from the proprietary and government sectors is flawed. Whatever the nonprofit sector does, is (or could be) done by the other sectors.

The Varieties of Nonprofit Organizations

Nonprofits organizations differ from each other, just as there are variations in government and in for-profit firms. Motivations vary among nonprofit organizations. Some leaders of nonprofits appear to be what one researcher saw as "idealists," seeking to help others and seeking social reform--which reflects the historical roots of nonprofits in charity and community; others appear to be simply income maximizers.[11]

Because of the difficulty of monitoring their activities, some nonprofits will inevitably be used by some people for socially undesirable purposes. There is no way to ensure that a nonprofit organization, once established, will be utilized for its approved purpose alone. It is costly to monitor each nonprofit organization to ensure that it is engaging in the activities for which its special treatment is intended.[12] Consequently, although many nonprofits provide the collective-type services, including consumer information, that society expects of them, others may not.[13]

Some nonprofits are "for-profits in disguise." Acting like profit-maximizing firms, these nonprofits are of dubious legality. They exist only because incomplete enforcement of the constraint against distribution of profit permits them to abuse their nonprofit status. These nonprofits have been misclassified; they are treated by tax authorities as if they were providing trust or other collective services, but they actually pursue the private interests of managers.

Another type of nonprofit can be called "clubs."[14] Their benefits accrue essentially--and in the clearest cases, only--to their members. Although they are legal, they are treated differently from the collective-type nonprofits. They do not receive the benefits of tax-deductible donations and many other subsidies. A trade association, for example, although it is nonprofit in the sense that it does not seek profit for itself, is devoted to the maximization of profits of its member firms. Similarly, labor unions are "nonprofit" organizations that exist to maximize the welfare of workers.

Whether an organization uses the term "club" is not important. The key is whether substantial benefits accrue to people outside the organization. A club, such as the Sierra Club, that works for environmental preservation at the national level, for example, can benefit many nonmembers; it is more appropriately described as a collective-type nonprofit. Yet many other nonprofit clubs, such as local philatelic and numismatic clubs, provide few benefits to nonmembers, and so have little claim to public subsidization.[15]

Preferential treatment under United States tax law does not correspond precisely to this typology, but there is a reasonable relationship. Trust-type and collective nonprofits are the kinds that most people generally have in mind when they hear the term "nonprofit." These charities, the health, education, welfare, cultural and other organizations that are perceived as meeting societal needs are the organizations that receive special income-tax treatment, such as deductibility of contributions. These organizations--nearly all of which are tax-exempt under section 501 (c) (3) of the U.S.

Internal Revenue Code[16]--also benefit from a variety of other subsidies and tax benefits such as reduced postage rates, free "public service" advertising on radio and television, and, in various states, exemption from local property and state sales taxation.

An enormous number of nonprofits do not enjoy this range of public subsidies. Most, including those I described as clubs, enjoy none of them, except that their "surplus"--any excess of receipts over expenses--is not subject to corporate profits taxes. The club-type nonprofits are likely to have little or no such surplus, though, for they depend heavily for finance on membership dues, and these can be expected to be set to ensure financial "break even," but no more.

A particular nonprofit may not fit neatly into any one of these categories; its activities may be of more than one type. The tax law reflects awareness of such situations. If, for example, a nonprofit has been determined to be engaged in activities having a substantial public interest--providing trust or collective services--it will receive the subsidies noted above, but only for those activities. If it also engages in other activities[17]--"unrelated business activities"--those are taxed as if the organization were simply an ordinary private firm. Organizations, however, that engage in multiple activities--some tax-exempt, others not--can shift revenues and costs among their various activities, and because of the costliness of monitoring such shifting, nonprofits can become stiff competitors of private firms; not surprisingly, a growing chorus of for-profit firms is complaining of "unfair" competition.[18]

What happens when incomplete regulation permits the development of nonprofits that are for-profits-in-disguise? This question is particularly important when consumer informational handicaps are the social justification for nonprofits; sound public policy should restrain "nonprofit" providers from taking advantage of their special status to the detriment of consumers. When the IRS grants nonprofit status, particularly tax-deductible status, that status is a mark of quality. The public often believes that nonprofit status indicates that an organization is trustworthy.[19] Given the requirements of the tax code, this belief has some justification. Nevertheless, it is not always warranted.

Solid evidence of abuse of nonprofit status is difficult to find, given that abuse of the tax-subsidy laws on nonprofits is either illegal or of dubious legality. Moreover, it is not always clear precisely what "abuse" means. The goals of nonprofits are typically vague (for example, "the general welfare of the aged") and so the question of what constitutes "unfair" competition by nonprofits with proprietary firms is difficult to answer. To some firms, any competition from nonprofits is an improper abuse of a privileged position, whether it is illegal or not, but the issue has not been framed clearly, let alone resolved.[20]

Businesses are increasingly raising the question, however. At the 1986 White House Conference on Small Business, for example, "measures to prevent or discourage nonprofit groups from competing with small businesses for government contracts" was second on the list of ten proposals for action; at the 1980 Conference this was not even on the list.[21] And charges of nonprofits "advertising, going to shopping malls with mobile vans to offer free hearing tests, doing all the marketing things a private enterprise would normally do" are increasing.[22]

Abuse of the nonprofit form can occur in many ways. Nonprofits can act as for-profits-in-disguise by evading the constraint on distribution of profits by paying out profits in the form of increased wages. Disguising a distribution of profit by calling it a wage payment is illegal,[23] but given the costs of enforcement, excess payments to managers as well as to firms associated with trustees of the nonprofits can go undetected. There are abundant opportunities for directors and managers of nonprofits to benefit from having their own company sell services such as accounting, laundry, and legal representation to the nonprofit.[24] (Such abuses also occur in the proprietory sector, of course.) In 1977, for example, the New York State Comptroller's office charged that the State was losing millions of dollars in overpayments to both nonprofit and proprietary schools for the mentally handicapped. This occurred through payment of "inflated salaries" and through school operators leasing land at high prices from corporations they owned.[25]

Another way a nonprofit may evade the nondistribution constraint involves its being controlled by a for-profit firm that uses the nonprofit as a vehicle for the pursuit of profit. If the same persons own a private firm and control a nonprofit operating in a related field, the possibility of their taking advantage of the different tax treatments for private gain is clearly present. Two recent cases illustrate both the potential for self-serving behavior of nonprofits, and the difficulty of determining the facts when there are complex relationships between nonprofit and for-profit organizations.

In 1967 a church-affiliated nonprofit organization, Second Harvest, opened in Phoenix, Arizona, to distribute surplus food to the needy. By 1983 it was a nationwide network of 61 food banks, distributing more than 100 million pounds of food.[26] Its founder, John van Hengel, was even honored at the White House on March 1, 1982.[27]

To some people, though, Second Harvest had become a tool of private interests. New board members, for example, were appointed by for-profit food processors such as Beatrice Foods and Kraft Inc. and by the Grocery Manufacturers of America. When the founder of Second Harvest was ousted, critics charged that commercial firms were trying to control the nonprofit, both to prevent donated products from being resold commercially and to take advantage of certain corporate tax benefits.[28]

The food processors certainly did have a profit stake in the amount of food that Second Harvest took and how it distributed the food. Because the donor firms could obtain substantial tax benefits from their donations, they had an interest in ensuring that their contributions would be accepted.[29] This is not a trivial issue, given the substantial amounts of goods donated. Kellogg Company, for example, recently gave 37 railroad cars (107,000 cases) of a cereal that was not selling well; Tropicana gave 2.4 million quarts of grapefruit juice that were discolored but "perfectly drinkable."[30]

The complex relationships between nonprofits and proprietary firms also appear in a quite different area--services to boat owners. The Boat Owners Association of the United States, known as BOAT/US, is "a nautical AAA, a nonprofit organization that watches out for their interests on issues such as waterway user fees and boat safety and offers its members discounts on boating gear."[31] The organization's founders, Richard Schwartz and Richard P. Ellison, also started a for-profit organization, Boat America Corp., and allegedly used the nonprofit organization to steer boating supply business to their for-profit firm.[32] The proprietary firm had been running membership operations for the nonprofit, at a charge of $1 million per year; but this was unprofitable, and so in 1983 the work was transferred back to the nonprofit.[33] Members of the nonprofit boat association had not been told that their leaders were also the executive officers of the profit-making company.[34]

These illustrations are not intended to be judgmental of the facts in these two cases. But they do highlight the complexity of relationships that can develop between for-profit and nonprofit organizations, and they show the potential for utilizing nonprofits as for-profits-in-disguise. Whenever there are interlocking directorates of proprietary and nonprofit organizations, there is a potential for abuse.

Whenever any nonprofit is found to have abused its trusted position, the reputation of trustworthy nonprofits also suffers; the value of nonprofit status as a signal that the organization deserves contributions of money or time is debased. Nonprofits that do not act opportunistically, as well as those who do, will find it increasingly difficult to obtain resources, and will tend to be driven out.[35] In the end the nonprofit market for trust-type services can disappear. This process of debasement of the "currency" of nonprofit trustworthiness can be exceedingly slow, of course, since the information required to detect abuses is itself costly.

The debasement process, which results from incomplete information, is similar to the general problem of low quality "lemons." Whenever differences in quality of a commodity are costly to discern--say, the extent to which various charities actually serve the public purposes they proclaim--donors may judge the quality of all sellers' services as indistinguishable. As a result, the high-quality, public-serving nonprofits can find their reputations, and thus their ability to obtain support, injured by the actions of the self-serving for-profits-in-disguise. They can disppear from the market, as better performance goes unrewarded.[36] There may be a sort of "Gresham's Law" of nonprofits; bad nonprofits can drive out the good.

Notes

1. Murray Weidenbaum, *The Modern Public Sector* (New York: Basic Books, Inc., 1969), 93.

2. For example, it recently announced that it would give an award and a $15,000 grant to the nonprofit organization in Nashville (where its corporate headquarters are located) that best exemplifies excellence in management. *Newsletter*, Council on Foundations, 4 (May 28, 1985).

3. *Downtown Idea Exchange*, Downtown Research and Development Center, New York, New York, vol. 32 (February 1, 1985), 1.

4. "National Medical Begins Work on Memphis Hospital," *Wall Street Journal*, February 7, 1985.

5. W.K.Jordan, *Philanthropy in England, 1480-1660* (London: George Allen and Unwin, Ltd.), *passim.*

6. Robert Nelson, "An Address to Persons of Quality and Estate, Ways and Methods of Doing Good,: published in 1715, cited by B.Kirkman Gray, *A History of English Philanthropy* (London: Frank Cass and Company, Limited, 1905), 95.

7. Thomas W. Still, "Wisconsin non-profit groups ordered to speak up or fold up," *Wisconsin State Journal*, July 6, 1985, 1.

8. For a broad historical perspective on institutional choice, see Lance E. Davis and Douglass C. North, *Institutional Change and American Economic Growth*, (London: Cambridge University Press, 1971.

9. The government report refers to the "spectacular results" achieved by the co-operatives, especially in agriculture, "with the help of self-government by their members, and the quick reaction of their elected managers." (Ministry of Finance, Hungary,*Introduction of New Management-Forms in State Enterprises* (Budapest: Secretariate of the Ministry of Finance, 1985), 5-6.

10. Ibid., 21.

11. Dennis Young, *If Not for Profit, for What?* (Lexington, MA.: D.C. Heath, 1983), especially 97-99.

12. Whether nonprofits should also be permitted to engage in other, "unrelated," activities, is a separate--but quite controversial--matter. See chapter six, above.

13. Economists have tended to emphasize--unduly, I believe--the role of nonprofits as "fiduciary" organizations, which I have termed "trust." They have generally not seen that role as a particular form, albeit an important

one, of collective good. Hansmann, for example, appears to have seen the fiduciary and collective-good roles as quite distinct. (See his important work, "The Role of Non-Profit Enterprise," Yale Law Journal 89 (April 1980), 835-901, at 849, note 46. See also David Easley and Maureen O'Hara, "The Economic Role of the Nonprofit Firm," Bell Journal of Economics 14 (Autumn 1983), 531-538.

14. For an economic theoretic analysis of clubs, although not in the context of nonprofits, see James Buchanan, "An Economic Theory of Clubs," Economica 32 (February 1965), 1-14.

15. The distinction between nonprofits that are clubs and those that are collectives is clearer conceptually than it is in reality. The essential distinction involves the degree to which activities of the organization benefit only those who contribute to its support. Trade associations and labor unions are seemingly clear; yet, firms and workers who do not join may benefit from their activities. (It is also possible, though, that nonmembers may be harmed by the group activities.)

16. Some other organizations have tax-deductible status: veterans organizations, domestic fraternal societies, and cemetery organizations.

17. Estelle James refers to "cross subsidies"; see "How Non-profits Grow: A Model," Journal of Policy Analysis and Management 2 (Spring 1983), 350-365.

18. See discussion, above, in chapter six; and U.S. Small Business Administration, "Unfair Competition by Nonprofit Organizations With Small Business: An Issue for the 1980s," Washington, D.C., November 1983.

19. At the theoretic level this position has been taken by a number of writers in recent years. Examples include Burton A. Weisbrod, "Economics of Institutional Choice," Working paper, University of Wisconsin-Madison, 1979; Henry B. Hansmann, "The Role of Nonprofit Enterprise," Yale Law Journal, 89 (April 1980); and, at a more formal level, David Easley and Maureen O'Hara, "The Economic Role of the Nonprofit Firm,"Bell Journal of Economics, 14 (Autumn 1983), 531-38.

20. Receiving a growing number of complaints about this, the U.S. Small Business Administration held a symposium on the subject of "Nonprofits Competition with Small Business" on July 27, 1983. The ensuing report referred to "the growing problem of nonprofit organizations engaged in commercial activities in competition with for-profit small businesses." Prominent examples included activities of nonprofit universities in the production and distribution of audio-visual materials and computer software, and in the travel agency area; and sales of hearing aids by nonprofit hospitals and clinics. (Source: Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, Washington, D.C., "Unfair Competition by Nonprofit Organizations With Small Business: An Issue for the 1980s," November 1983, 28. See also chapter six, above.)

21. "Wish Lists, 1986 and 1980," Wall Street Journal, August 18, 1986, 23.

22. Steven P. Galante and Sanford L. Jacobs, "Liability-Insurance Woes Promise To Be Delegates' Primary Concern," Wall Street Journal, August 18, 1986, 23.

23. Enforcement problems aside, the constraint against distribution of profits implies that market prices will be paid for all resources purchased from persons associated with the nonprofit, managers included, and so any payment in excess would be an illegal distribution of profit. Operational determination of such market prices is, obviously, hard.

24. Amitai Etzioni and Pamela Doty argue that such payments are common. See their "Profit in Not-for-Profit Corporations: The Example of Health Care," Political Science Quarterly 91 (Fall 1976), 433-453.

25. The Director of the program's Office of Supervision, Dr. Robert L. Guarino, complained that there had been insufficient funds for monitoring. See "Levitt Audit Finds Overpayments to Private Schools for Handicapped," New York Times, December 18, 1977, 76.

26. Report of the President's Task Force on Food Assistance, January 1984 (Washington, D.C., no publisher shown), 187.

27. Jeffrey H. Birnbaum, "Bitter Harvest: Charity That Delivers Surplus Food to Needy Is Split by Accusations," Wall Street Journal, October 25, 1982, 1 and 20.

28. Birnbaum, Ibid., 1.

29. They may deduct as an expense not only the cost of producing the donated products--presumably an average cost, which could exceed the actual marginal cost of production--but also half of the difference between the cost and the fair market value of the product.

30. Birnbaum, Ibid., 20.

31. Sari Horwitz, "Boat America Closely Tied To Nonprofit Association," Washington Post, September 17, 1984, Business Section, 1, 30, 31.

32. In 1983 Boat America earned profit of $611,000 on sales of $20.5 million. "Under the stock offering issued in May [1984], Schwartz and Ellison together stood to earn more than $2 million by selling part of their stake in the company they founded." (Ibid., 1).

33. Ibid., 30.

34. Ibid., 31.

35. For further analysis of the long run process when there are various types of nonprofits see Jerald Schiff, "Expansion, Entry and Exits in the Nonprofit Sector: the Long and Short Run of it," Tulane University, Department of Economics, October 1985.

36. The original model of this process was presented by George Akerlof, "The Market for 'Lemons': Qualitative Uncertainty and the Market Mechanism," *Quarterly Journal of Economics* 74 (August 1970), 484-94.

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TOWARD A NEW ECONOMICS FOR THE NONPROFIT SECTOR

by

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Introduction

I cannot remember how this paper got its title - whether I thought it up or it was suggested to me. However, as its author I have the privilege of deciding what the title means. It does not mean, as the title might suggest to some, that I believe that the existing and established field of the economics of the nonprofit sector is in need of drastic reformulation. It does mean that I believe the new and emerging field of the economics of the nonprofit sector is exciting and potentially very fruitful for the rest of the profession. We are about three-fourths of the way to a complete theoretical framework, and I have some suggestions for the other fourth. Since I understand that this conference includes more noneconomists than economists, I have tried mightily to write in intelligible English, but I apologize in advance if my readers discover that I have failed.

It is particularly appropriate that the theme of this year's conference is "The Constitution and the Independent Sector", not only because of the bicentennial of the US Constitution but also because the most recent Nobel Laureate in Economic Science is James Buchanan, who was one of the founding fathers of public choice theory, a branch of economics which from its early days included the study of constitutional law. Public choice theory has been important in the study of the nonprofit sector.

The State of the Art

The panel at which this paper is scheduled to be presented includes two of the most prominent figures in the field, and I (not one of the figures) recently summarized the state of the art in two other places [Gassler, 1986 a and b]. Therefore my discussion here of the state of the art is short. I pay homage to the other two members of the panel, but please bear in mind that I would have praised their work almost as much if they had not been present.

The beginning of the serious study of the nonprofit sector by economists can perhaps be dated from the publication of either The Pluralistic Economy by Eli Ginzberg and others in 1965 or Kenneth Boulding's The Economy of Love and Fear in 1973. However, the first book, though it had interesting insights, did not contain a theoretical framework and did not, so far as I know, spark a line of research activity. Boulding's book is found on the bookshelves of many economists, and it is widely known in the profession as another example of his unique perspective. It (or he) spawned both the

Association for the Study of the Grants Economy and the Grants Economics Series. The ASGE has succeeded in bringing together a more prominent set of economists for more interesting discussions than just about any other group that meets jointly with the American Economic Association at its annual convention. However, the discussions rarely use the framework of grants economics developed in his book -- or even use the term "grants economics". Boulding seems to have had the same effect here as elsewhere: he inspires us to think about issues heretofore not given our full attention, but we do not end up thinking about them his way.

If we do a citation count we would almost certainly conclude that Burton Weisbrod was the founder of the modern economic theory of the nonprofit sector. His 1975 article on the reasons for the formation of nonprofit enterprises must be the most widely-quoted paper in the literature of the field. It is an application of the public choice theory founded by Buchanan and others to the decision to create a nonprofit enterprise. The (overly) simple version of the logic is this: the market fails to provide the efficient level of a good of a certain type, called a "collective good". In those cases people may vote to decide how much of this good will be provided by the government. Those who think the government is providing too little then form a nonprofit enterprise to provide the rest. Weisbrod derives a number of refutable hypotheses from the model, and in later work devises methods of measuring the variables to test them [1977].

The dozen years since Weisbrod's paper have seen a minor explosion of growth in the study of nonprofit organizations by economists, much of it centered at Yale's Program on Non-Profit Organizations and at the State University of New York at Stony Brook. Susan Rose-Ackerman, now at Columbia, recently [1986] edited a collection of some of the most important articles in the field, including Weisbrod's. In that and in her survey written with Estelle James [1985], she gives us a thorough and comprehensive survey of the field, including her own work on the crowding out of nonprofit activity by government.

Dennis Young at Stony Brook's school of public affairs has focused on the role of entrepreneurship in the nonprofit sector [1983, 1984]. This is an area that deserves more attention than it gets from mainstream economics, and in the study of the nonprofit sector it perhaps holds one of the keys to explaining why such a sector exists in the first place.

The Urban Institute has begun a project to study the nonprofit sector that is empirical and policy-oriented. For example, they asserted that the Reagan Administration's plans to cut social spending would hurt the nonprofit sector more than many people realized, since the government subsidizes nonprofit activity as well as competes with it [Salamon and Abramson, 1982]. Their subsequent research has borne this out [Palmer and Sawhill, 1984].

The "three fourths" of the theoretical structure that I claim are more or less in place should logically be numbered starting with two: (2) The study of the internal structure and conduct of nonprofit enterprises: property-rights constraints, transaction costs, entrepreneurship, etc. [See Gassler, 1986b.] (3) The study of the relations between organizations and between organizations and individuals (the grants economics process, in Boulding's terms): Weisbrod's public choice theory of nonprofit enterprise formation, for example. (4) The study of the economy as a whole and the place of the third sector in it, what economists call general-equilibrium analysis and macroeconomics: the Urban Institute's studies and the papers on the crowding-out effect and the nonprofit sector in Rose-Ackerman [1986] falling into this category.

Number one, however, has not to my thinking been completed.

Unanswered Questions

To me the incomplete one fourth is at the level of the individual and therefore fits at the beginning of the list. More precisely, the incomplete part concerns the relation between benevolent motives at the individual level and nonprofit behavior at the organizational level. The received wisdom in economics, the one taught in the mainstream textbooks and followed in public choice theory, is disjoint.

The typical argument is as follows: (a) It is naive to think that economists believe all individuals to be selfish all the time. The neoclassical paradigm can easily incorporate benevolent motives. This statement typically appears in a boxed insert in the chapter on individual behavior ("utility maximization"). (b) It is naive to think that government bureaucrats are any less self-centered than businesspeople; after all, people are people no matter where they work. This statment typically appears in the chapter on public choice, because it is the assumption used in Buchanan's work. The authors of statements such as these do not seem to notice that not only does (b) not follow from (a), but it is also inconsistent with it.

I suggest we try a different approach, implied by Boulding [1973], Collard [1978], and others. Start by assuming that individuals have the same set of motivations (utility function) no matter where they work or what they do, but those motivations include benevolent (and malevolent) as well as selfish ones. For any given type of action these individuals not only choose the particular goods and services they want but also the type of organizations through which they want to work to get them. On the demand side, when I shop for groceries or books, I may not care whether I buy from a corporation, a government agency, or a charity, but when I give money to help the hungry in Ethiopia I may care that the organization distributing it is nonprofit. (Why? Because I am charitable toward Ethiopians, not fundraisers or administrators.)

On the supply side, if I look for work as a stockbroker I will seek out a corporation or a partnership, but if I want to be a liberal-arts professor I prefer that it be for a nonprofit college rather than a proprietary business school. (Why? Because I want an organization that can insulate itself to an extent from the current swell in demand by students for business subjects, even if it means giving up revenues, because I not only want job security but I also believe in the spiritually uplifting value of the study of Eastern philosophy.)

Start with the assumption that nonprofit firms can be established for purposes which are not selfish in a narrow sense: benevolent [Collard, 1978], ideological [James and Rose-Ackerman, 1985], or quality-oriented [James and Rose-Ackerman, 1985]. This is consistent with statement (1). Then derive the existence of nonprofit enterprises from the unselfish motives in the same way that firms are derived from selfish ones. This model would complete the last one-fourth of the field.

The development of such a model calls for two lines of research: First it requires an exploration of the relation between benevolence and nonprofit activity. There are a number of reasons given in the literature already for the creation of nonprofit enterprises: public choice considerations [Weisbrod, 1975], transactions costs [Krashinsky, 1986], contract failure [Hansmann, 1980], trust [Arrow, 1983] and a number of other reasons [Gassler, 1986a; Young, 1983]. All of them are incomplete to the extent that they fail to answer the fundamental question of why anyone would care about such things. I argue elsewhere [1986a, p.51] that selfish motives may be sufficient to explain the actions of all firms and governments (though I doubt it even there), but not to explain the creation of nonprofit enterprises. Everyone in the nonprofit sector does not have to be a saint for the sector to work, but at least a few people have to have cared about others for the sector to exist.

All this however awaits the second line of research: a comprehensive statement of the theory of benevolence. Collard [1978] comes closest to such a statement, providing us with a proper, nontautological definition free from the complex mental gymnastics found elsewhere. (Lutz and Lux [1979] criticise the fallacy of thinking that "all altruism is only selfishness in disguise".)

Once the theory of benevolence is developed sufficiently and its implications for nonprofit enterprises worked out, we will then have the theoretical underpinnings for the other three areas of our field. The discoveries we make in the area of benevolence will of course have repercussions for all other areas, so there will be much to do.

At the level of the enterprise, the economics of organization is a new and growing field which overlaps with the economics of the nonprofit sector. The problem of "incentive compatibility" between the organization and its members is at least as large in the nonprofit case as in the case of firms or governments. Other issues I discuss at more length elsewhere [1986b].

At the level of the "market", the grants process has a demand side and a supply side. On the demand side are the donors and the clients. On the supply side are the founders, managers, and workers in the enterprises. (Entrepreneurs are to be found among the first two.) A theory of the grants process would model each participant separately, show how in their interactions they collectively reach an equilibrium (in the same sense that a market does), and then would explore the results according to economists' usual criteria of efficiency, equity, etc. Many of the pieces of the puzzle are already here, but it remains for someone to put them all together.

At the last level, the economy as a whole, I think the economic theory of the nonprofit sector needs eventually to be embedded in a more general theory of political and social economics, elements of which are being developed in various parts of the profession: public finance, public choice, comparative economic systems, industrial organization, and many others.

In all cases, however, the theory of course needs to be closely related to its application.

Application

Benefit-cost analysis is the tool economists have developed for planning large future projects and evaluating past ones in the public sector. It is in a sense a generalization and adaptation of ordinary economic analysis, which was originally designed to explain and evaluate activities in the profit sector. It is logical to think therefore that benefit-cost analysis should be the basis for planning and evaluation in the nonprofit sector as well. That way there would be a common set of criteria for comparing performance in all three sectors: efficiency (effect on resource allocation), equity (effect on income distribution), and stability (effect on inflation, unemployment, and economic growth).

Unfortunately in its present form, benefit-cost analysis is too narrow to be much use. Its narrowness lies not just in its failure thus far to come up with measures of the output of, say, the local YWCA or the NAACP. Further research may well come up with such measures. The narrowness lies also in the range of criteria used in evaluation. I argue elsewhere [1986] that nonprofit enterprises perform a wider range of activities in the economy than do firms or perhaps even governments (an assertion that may be less controversial to noneconomists than to economists). Some of these activities have to do with the maintenance or the transformation of the economic system itself. Therefore their performance should be measured according to the range of those activities. How do we measure the output of Freedoms Foundation except by looking at its effect on the amount of freedom (however that is measured) in the country? That impact would not be picked up in the efficiency, equity, and stability measures normally used. There is some movement toward "outcome measures" in some industries such as higher education, but even so, to state the problem is to indicate how formidable it is.

Conclusion

I am afraid I have fallen short on the ways in which current research can be applied. That is partly due to the fact that my work so far has been mostly theoretical. However, it is also due to the fact that in a young field there is a lot of theoretical work to be done before we can be ready to interpret it for application.

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SECTION FOUR:
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INDIVIDUAL GIVING UNDER THE TAX REFORM ACT OF 1986

Lawrence B. Lindsey

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INDIVIDUAL GIVING UNDER THE TAX REFORM ACT OF 1986

Last September, Congress enacted the most sweeping reform of the tax code in more than 30 years. The Tax Reform Act of 1986 was the culmination of nearly 2 years of work on tax reform by the Department of Treasury, the Administration, and Congress. The tax reform affected every sector of the American economy in some way. However, the not-for-profit sector probably faces a larger impact than most other areas of the economy.

This paper examines the probable effects of the tax reform bill on charitable giving by individuals. The impact of tax reform on charitable giving is largely the indirect result of changes in the tax code which affect the after-tax cost, or price, of making charitable gifts. The new tax law increases the price of giving for taxpayers in every type of tax situation. First, the new law lowers marginal rates, thus lowering the tax reducing value of the charitable deduction for taxpayers who itemize their tax returns. Second, the new law abolishes the charitable deduction for non-itemizers and greatly increases the number of taxpayers in this category. Nearly three quarters of all taxpayers will receive no tax incentive for charitable giving under the new law. Third, contributors of large gifts of appreciated property are likely to be subject to the minimum tax.

This paper considers the impact of these changes on the price of making charitable contributions, the after-tax income of contributors, and the level of charitable giving by individuals. The effect of tax reform on charitable giving is simulated using standard economic models of giving behavior and econometric parameters derived from the work of numerous researchers over the past decade.

The first section reviews the economic literature on charitable giving behavior and describes the model used for estimating the response of taxpayers to the new tax law. The second section describes the various provisions of the tax law which affect the price of charitable giving and estimates their impact on the after-tax cost of making a contribution. The final section presents the results of computer simulations of the effect of the new tax law on the aggregate level of giving by individuals.

Econometric Research on Taxes and Charitable Giving

As in the case of other forms of consumer spending, microeconomic studies of charitable giving by households focus on two parameters to determine the level of an activity undertaken: the price of the activity and the income of the household. Unlike most commodities, the price of charitable giving is neither explicitly stated, nor is it the same for all consumers. Rather, the price of making a charitable gift of one dollar is defined by the foregone disposable income involved in making that gift. For taxpayers who itemize their deductions, this price for gifts is unity minus the individual taxpayer's marginal tax rate. An itemizing taxpayer in the 30 percent tax bracket thus faces a price of 70 cents to make a $1.00 contribution while a taxpayer in the 40 percent tax bracket faces a price of 60 cents. In recent years, taxpayers who did not itemize their tax returns were allowed to reduce their taxable income by at least part of the amount of their charitable deductions. In 1986, these non-itemizers were allowed to deduct the full amount of their charitable giving. Thus, for that year, non-itemizers and itemizers in the same tax bracket faced the same price of giving.

The price of contributing property which has appreciated in value since the time it was purchased is generally lower than the price of contributing cash. If a taxpayer sells property rather than contributing it directly to charity, he pays capital gains tax on any increase in value. Property which is not sold, but transferred by gift or by bequest, is not subject to capital gains tax.

Economists maintain that consumer behavior is based on the marginal incentive faced by the individual. In the case of giving, this is the price of giving either one more dollar or one less dollar. In order to take account of gifts of appreciated property, the marginal price is expressed as a weighted average of the price of making a gift of cash and the price of making a gift of appreciated property. For econmetric consistency, the modelling done in this paper follows a convention established by Feldstein and Taylor(1976). This convention assigns the fraction of all giving which is in the form of property by individuals in a given income group to all members of that income group. Equation 1 defines the price of giving for each taxpayer.

$$(1)\ P_i = c_i(1-\text{rate}_i) + (1-c_i)(1-\text{rate}_i-f_i\text{cgrate})$$

In equation 1, c_i represents the fraction of gifts made in cash by taxpayers in the same income class as the taxpayer being simulated. Rate_i represents the marginal tax rate facing the taxpayer and cgrate_i represents the marginal tax rate on long term capital gains which the taxpayer faces. The parameter f_i represents the appreciated portion of property gifts for taxpayers in the same income class as the taxpayer being simulated. Values for the parameter c were obtained from income tax data contained in the Statistics of Income, while values for the parameter f were obtained using data from a survey of donors. Values for the parameter f vary among taxpayers and the simulations done here used a Monte Carlo process for assigning the fraction of each gift of property which represented appreciation..

The value of income used in the simulations in the present paper took Adjusted Gross Income as the base. This was modified to reflect the virtual income simulation technique developed by Hausman(1979) and described in detail in Lindsey(1985). In this formulation, the known level of giving of a taxpayer, G_0, can be converted into a new level of giving, G_1, given the taxpayers current income, Y_0, income after the tax change, Y_1, current price of giving, P_0, and price of giving after the tax change, P_1. The parameters used to make this conversion are the income elasticity of charitable giving, a, and the price elasticity of charitable giving, b. Equation 2 expresses the conversion.

$$(2)\ \ln G_1 = \ln G_0 + a \ln (Y_1/Y_0) + b \ln (P_1/P_0)$$

Econometric consistency requires that the price, level of giving, and income all be consistently defined for any given taxpayer. However, it may be possible that the level of giving consistent with a particular price alters the taxable income the of taxpayer receives and places that taxpayer in a new tax bracket. This, in turn would change the price of giving and render the old estimate obsolete. In this case an indirect utility format must be used to compute the taxpayer's giving, price, and income. The method for solving this problem is described in Feldstein and Lindsey(1983).

Econometric investigation of elasticity of charitable giving with respect to income and price (parameters a and b in equation 2) extends back more than a decade. In a revenue neutral bill such as the current tax reform act, the change in disposable income for various taxpayers is quite small. Thus, the income effect of tax reform, noted by the ratio Y_1/Y_0, is also likely to be quite small. On the other hand, the large change in tax rates in the bill has a dramatic effect on the price of charitable giving for many taxpayers. The key parameter in simulating the effect of tax reform is therefore b, the price elasticity of charitable giving.

Feldstein (1975) used a constant elasticity specification and data from alternate years from the Statistics of Income to estimate the price elasticity of giving. The mean level of charitable contributions by itemizers was regressed on the mean level of disposable income in various income cells, and an estimate of the mean price of giving for taxpayers in that cell. Simultaneity bias was eliminated by using tax rates and disposable income faced by taxpayers assuming no charitable contributions were made. The basic estimate for a price elasticity was -1.24.

Feldstein and Clotfelter (1976) used household data from the Federal Reserve Board's Survey of the Financial Characteristics of Consumers. The basic result was a price elasticity of -1.15. Feldstein and Taylor (1976) used the 1970 Individual Tax Model File and found a price elasticity of -1.29.

Boskin and Feldstein (1978) used data from the 1974 University of Michigan Survey Research Center for households with income under $30,000. Their basic finding was a price elasticity of -2.54. Dye (1978) used the same data base but incorporated a wealth variable in his regression and found a price elasticity of -2.25. Reece (1979) used the 1972-73 Consumer Expenditure Survey and found a price elasticity of -1.19 using a Tobit procedure of estimation to account for a large number of zero entries.

Clotfelter (1980) used a 7 year panel of taxpayers with incomes between $2,000 and $50,000 (at 1970 prices) and estimated an elasticity of -1.34. Clotfelter and Steuerle (1981) used the 1975 Individual Tax Model File to find a price elasticity of -1.27. Feenberg (1982) used a detailed modelling of state income taxes at the National Bureau of Economic Research to avoid simultaneity bias in estimation. His paper highlights the importance of considering alternative specifications of after-tax price, although his basic estimate of -1.23 is very much in line with the other estimates.

The results presented in this paper generally assume a price elasticity of -1.20 for simulation purposes. This tends to be on the conservative side of the range of estimates presented above. It is important to stress that 10 years of academic investigation of the price sensitivity of charitable giving using a wide variety of data bases and econometric techniques presents a very robust conclusion that taxes have a profound effect on charitable giving.

However, some authors have considered the possibility that the price elasticity of charitable giving may vary with the income of the donor. The econometric evidence on this possibility is ambiguous, however. The studies by Feldstein (1975) and Feldstein and Clotfelter (1976) found higher elasticities among lower income taxpayers than among higher income taxpayers. The studies by Boskin and Feldstein (1977) and Dye (1977) used a data base which was primarily composed of lower and moderate income people and found very large elasticities. On the other hand, the studies by Feldstein and Taylor (1976) and Clotfelter and Steuerle (1981) found that the price elasticity tended to rise with the income class of the taxpayer. In order to examine the sensitivity of the results to the specification of the price elasticity, this paper uses the variable elasticity findings of Clotfelter and Steuerle to provide alternative estimates of the impact of the tax reform bill of 1986.

Effect of the Tax Reform Act of 1986 on the Price of Giving

Four changes in the Tax Reform Act of 1986 will have a significant effect on the price of charitable giving: the ending of the charitable deduction for non-itemizers, the reduction in the number of itemizing taxpayers, the reduction of tax rates, and the inclusion of appreciated property in the minimum tax base. The first two of these changes work together to sharply reduce the number of taxpayers eligible for a tax incentive for their charitable contributions. These changes will be primarily felt by low and moderate income taxpayers. On the other hand, the latter two changes affect those taxpayers still itemizing under the new tax law. This group is primarily composed of upper and upper-middle income taxpayers.

The abolition of the charitable deduction for taxpayers who don't itemize eliminates the tax incentive for charitable giving for a majority of the nation's taxpayers. Under the old tax law, roughly 58 percent of all taxpayers, or some 64 million, could have benefitted in 1988 from a continuation of the charitable deduction for non-itemizers. These taxpayers would have contributed some $18.8 billion that year, or about 24 percent of all giving by individuals. Under the old tax law, the average price of giving for these taxpayers weighted by their giving would have been 84.5 cents for each dollar contributed. Under the new law, with the tax incentive eliminated, the price rises 18 percent, to $1.00.

The effect of the elimination of the non-itemizer deduction is particularly dramatic because of a sharp reduction in the number of taxpayers likely to itemize under the new tax law. Although the charitable deduction is left intact for taxpayers who will itemize their deductions, the list of allowable deductions is reduced. Taxpayers are denied deductions for state sales taxes beginning in 1987 while the deduction for non-business interest payments is to be phased out between 1987 and 1991. In 1988, the year simulated in this text, only 40 percent of non-business interest payments may be deducted. In addition, the floor on the medical deduction is increased from 5 percent to 7.5 percent of income and a new 2 percent floor is imposed on miscellaneous itemized deductions.

The reduction in the number of allowable deductions is coupled with an increase in the standard deduction or threshold level of deductions needed to be an itemizer. Under the old tax law this would have been about $3800 for a married couple in 1988. The new law increases the standard deduction to $5000. The combination of the smaller list of allowable deductions coupled with the increase in the standard deduction sharply lowers the number of taxpayers who will itemize under the new tax bill. These taxpayers would have had an average price of giving of 74.7 cents under the old tax law. Instead, the tax incentive to contribute is eliminated by the new bill causing a price increase of more than one third.

Table 1 shows the distributional impact of these changes in the itemizer status of taxpayers. In total, only about one quarter of all taxpayers will still be itemizers under the new tax bill. Thus, three fourths of the taxpaying population will receive no tax incentive for their charitable gifts under the new bill. This includes more than 90 percent of taxpayers with incomes under $30,000.

Table 1

Effect of New Tax Bill on Itemizer Status

New AGI Class	Number of Taxpayers	Stay Itemizers	Become Non-itemizers	Remain Non-itemizers
0-10	27.9	1%	1%	98%
10-20	25.1	7%	13%	80%
20-30	19.4	20%	29%	51%
30-40	14.5	41%	33%	26%
40-50	9.5	61%	24%	15%
50-75	9.2	74%	16%	10%
75-100	2.3	82%	8%	10%
100-200	1.8	86%	6%	8%
over 200	0.6	91%	3%	6%
TOTAL	110.7	26%	16%	58%

AGI Classes in Thousands
Number of Taxpayers in Millions
All figures for 1988

It is particularly noteable that among taxpayer groups with incomes from $20,000 to $50,000, between one quarter and one third of taxpayers switch itemizer status and become non-itemizers under the new tax bill. This change in itemizer status among these key taxpayer groups is one of the major reasons why the weighted average price of charitable giving rises so dramatically under the new tax bill.

Table 2 presents the overall rise in the price of giving for each income group as a result of the new tax bill. The data reflect the price of giving in each taxpayer group weighted by the contributions each taxpayer makes. Separate tabulations are presented for those who remain as itemizers under the new law in order to examine the effect of the various provisions of the tax law.

Table 2

Weighted Average Price of Charitable Giving

New AGI	Itemizers-New Law		All Taxpayers	
Class	Old Law	New Law	Old Law	New Law
0-10	.965	.950	.920	.987
10-20	.850	.879	.847	.977
20-30	.793	.815	.800	.931
30-40	.748	.806	.750	.889
40-50	.716	.765	.714	.828
50-75	.656	.707	.655	.753
75-100	.591	.702	.596	.736
100-200	.536	.686	.538	.702
over 200	.448	.696	.450	.700
Total	.657	.748	.718	.854

AGI classes in thousands
All figures for 1988

The data show the relative importance of the various changes in the tax law on the price of giving. Itemizers saw an increase in their price of giving as a result of the reduction in marginal tax rates. Table 2 shows that in total this caused a 9 cent increase in the price of giving for itemizers, from 65.7 cents to 74.8 cents, or about 14 percent. Itemizers make about 58 percent of the all gifts. Thus, the rate reductions alone increase the weighted average price of giving is 58 percent of 9 cents, or about 5.25 cents. However, the total increase in the weighted average price of giving is 13.6 cents. This means that only 39 percent of the total increase in the price of giving was caused by changes in the tax rates alone. The vast majority, 61 percent, of the increased price of giving was caused by the elimination of the non-itemizer deduction and the reduction of the number of taxpayers who itemize their returns.

This relationship varies across income classes. The increase in the price of giving for itemizers earning under $50,000 was quite modest, under 7 percent. Furthermore, itemizing taxpayers make only 37 percent of the gifts for people in this income range. The effect of lower rates therefore contributes only about 2 cents of the roughly 12 cent price increase for charitable giving for taxpayers earning under $50,000. By contrast, nearly all of the increase in price for taxpayers earning over $50,000 is due to the tax rate changes.

Among high income taxpayers the increase in the price of charitable gifts rises as income rises. Taxpayers earning between $50,000 and $75,000 face a price increase of about 10 cents or 15 percent. Taxpayers with incomes over $200,000 face a price increase of 25 percent or 56 percent. The principal reason for this is the reduction in the tax rate schedule from a maximum tax rate of 50 percent to a tax rate of either 28 or 33 percent, depending on income.

The decision to include the appreciated portion of gifts of property in the minimum tax base contributed to the increase in the price of giving. In 1988, some 70,000 taxpayers with incomes over $200,000 will be subject to the minimum tax. These taxpayers will face a price of 79 cents on both their gifts of cash and their gifts of property. Although they comprise only about 12 percent of taxpayers earning over $200,000, these minimum taxpayers contribute more than 40 percent of the $7.4 billion given by upper income taxpayers, or more than $3 billion.

The impact of the of minimum tax on the price of giving by high income taxpayers is therefore quite dramatic. Some 10.4 cents of the 25 cent increase in the price of giving by upper income taxpayers is due to the price increase faced by taxpayers in the minimum tax. The overwhelming majority of the value of the gifts by these taxpayers are large (over $100,000) contributions of appreciated assets. Groups which rely on these gifts are likely to face a particularly difficult situation.

Effect of Tax Reform on the Level of Charitable Giving

The preceding section described the effect of the tax law changes on the price of charitable giving. The effect of this price increase on charitable giving depends on the price elasticity, the measure of the sensitivity of giving to changes in the price of giving. Two models of giving are considered: a constant elasticity specification which represents the dominant result of economic investigation, and a variable elasticity specification which assumes that upper income taxpayers are more sensitive than lower income individuals to an equal percent change in the price of giving. Both sets of results are presented in Table 3.

Table 3

Estimated 1988 Giving Levels

		New Law			
New AGI Class	Old Law	Constant Elasticity	Percent Change	Variable Elasticity	Percent Change
0-10	4.20	3.87	- 7.9%	4.15	- 1.2%
10-20	12.35	10.56	-14.5%	11.70	- 5.3%
20-30	13.38	11.42	-14.6%	12.33	- 7.8%
30-40	11.28	9.41	-16.6%	10.11	-10.4%
40-50	8.85	7.67	-13.4%	8.07	- 8.8%
50-75	10.50	9.21	-12.3%	9.46	- 9.9%
75-100	4.08	3.31	-18.8%	3.41	-16.3%
100-200	4.85	3.65	-24.7%	3.64	-24.8%
over 200	7.37	4.53	-38.5%	3.41	-53.8%
TOTAL	76.86	63.63	-17.7%	66.28	-14.2%

All dollar figures in billions.
AGI levels in thousands.
All figures for 1988.

Both the constant elasticity and the variable elasticity models of charitable giving predict that the largest percent decline in giving will be near the top of the income distribution. The constant elasticity model predicts a giving decline of more than $13 billion while the variable elasticity model predicts a giving decline of about $11 billion.

It should be noted that these figures represent only the effects of the tax bill and assume that other factors remain unchanged. An increased effort at obtaining contributions by charitable organizations or an increased spirit of philanthropy in the country may help to offset some of these declines.

The effect of lower levels of personal taxes are reflected in these numbers along with the effect of higher prices of giving. On average, each taxpayer will receive a tax cut of about $250. This amounts to an increase in disposable income of about 1 percent. The "income effect" of lower taxes and higher discretionary income produces about 1 percent more charitable giving, or about $700 million. Even under extreme assumptions of the sensitivity of giving to discretionary income, it is virtually impossible for the increase in income to fully compensate for the effect of the higher price of giving.

The importance each tax change has on the level of giving varies with the elasticity assumption used. The constant elasticity model assumes that all taxpayers respond equally to an equal percentage change in the price of giving. On the other hand, the variable elasticity model assumes that lower income individuals respond less than average while upper income individuals respond more than average to equal changes in the price of giving. Thus, the variable elasticity model would predict that changes which selectively affect upper income taxpayers, such as the minimum tax provisions, would be more important than under the constant elasticity model. On the other hand,the elimination of the non-itemizer deduction, which primarily affects lower income taxpayers, would have a smaller impact under the variable elasticity model than under the constant elasticity model. Table 4 bears this out.

Table 4

Giving by Type of Taxpayer

Type of Taxpayer	Old Law	New Law	
		Cons.Elas.	Vari.Elas.
Remain Non-Itemizer	18.77	15.53	17.28
Become Non-Itemizer	15.20	10.95	12.40
Regular Itemizer	39.01	34.97	35.68
Minimum Taxpayer	3.88	2.19	1.56
Total	76.86	63.63	66.93

Giving figures in billions.
All figures for 1988.

The data show that if the only change made in the tax law had been the abolition of the non-itemizer deduction, giving would go down $3.2 billion under the constant elasticity assumption and $1.5 billion under the variable elasticity assumption. However, the tax law also greatly increases the number of non-itemizers. Given the other tax changes made, the estimated decline in giving due to the removal of the non-itemizer deduction becomes $7.4 billion under the constant elasticity model and $4.3 billion under the variable elasticity model.

The estimated cost of the rate reductions is a bit more than $4 billion under the constant elasticity assumption and about $3.3 billion under the variable elasticity assumption for regular itemizers. The decline in giving by minimum taxpayers shows the decline in giving for these individuals as a result of all provisions of the bill, not just the minimum tax provisions. These taxpayers would have seen an increase in price due to the ordinary rate reduction if they were not subject to the minimum tax. Only about half of the decline in giving by these taxpayers is directly ascribable to the rate reductions. Thus, roughly $0.9 billion under the constant elasticity model and $1.2 billion under the variable elasticity model should be added to the estimated cost of the rate reductions.

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TAX REFORM AND VOLUNTEERING

by
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Tax Reform Effects on Giving and Volunteering Panel
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Tax Reform and Volunteering

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1. Introduction

The recent revision of the federal income tax code will have a significant impact on the nonprofit sector. Within this context, much attention has been paid to the impact of the tax reform on charitable donations of money and property.[1] However, the effect of tax policy on contributions of time, or volunteer labor, has been largely ignored. In fact, the entire subject of volunteering has scarcely been dealt with by economists. This is due, in part, to the absence of reliable data, and in part to the belief that volunteering is not affected by factors generally considered to be "economic".

Further research on volunteering would likely prove quite valuable. Volunteering is quantitatively significant, with an estimated value of 64 billion dollars in 1984, compared with 48 billion dollars of money and property contributions.[2] This alone would seem to make the study of volunteering worthwhile. In addition, volunteering decisions appear to be influenced by economic factors, such as prices and income, so that research on volunteer behavior would inform public policy discussions. Finally, even if one was interested solely in donations of money, as opposed to time, an understanding of volunteering would be useful, given the relationship between the two forms of giving.

The purpose of this paper is to analyze the likely impact of the recent tax reform on volunteering. We begin, in Section 2, by discussing the avenues through which taxation, in general, can affect hours donated. In Section 3, we present empirical evidence on the size of these various tax effects, and discuss the implications of the evidence for various models of volunteer behavior. In Section 4, we estimate, in a rough way, the likely impact of the recent tax law changes on volunteering. Finally, in Section 5, we discuss the shortcomings--both theoretical and empirical--of our analysis, and suggest directions for future research and data collection.

2. Taxation and Volunteering

Taxation potentially influences volunteering in three ways. First, a change in marginal tax rates, or in the tax treatment of volunteering, will affect the price, or cost, of volunteering. Second, changes in tax policy affect after-tax income, which may influence hours volunteered. Finally, and perhaps most importantly, the tax treatment of money donations will indirectly affect hours volunteered if donations of money and time are related. We examine each of these effects in turn.

A. The Price Effect

Taxation influences an individual's choice of hours volunteered by, first, lowering the price of volunteering. An hour spent volunteering is costly to the donor--beyond out-of-pocket costs incurred--because that hour has alternative uses which would be of value. The more attractive the alternatives to volunteering, the more costly is giving time and the less, other things equal, the individual will volunteer.

It is difficult to know the most attractive alternative facing each potential donor and, so, to construct a price variable in any empirical analysis of volunteering. If individuals were unconstrained in their use of time, each would allocate his or her time among alternative uses--wage labor, volunteering, home production and leisure--until the value of an additional hour spent in each use is equalized. In this case, the opportunity cost of volunteering--and of time, in general--would equal the net-of-tax wage that one could obtain.[3] (We discuss, in Section 5, some of the complications arising in measuring the cost of volunteering by the net wage.) Any reduction in marginal tax rates on earnings would make working for pay more attractive and, therefore, would tend to reduce hours volunteered.

The analysis is complicated if volunteering is motivated, at least in part, by the desire to accumulate skills, or "human capital", with which to increase future wages. Survey responses indicate that this is an important motivation, particularly for younger volunteers[4]. If volunteering is, in part, job training, a cut in tax rates will have an ambiguous affect on donations of time. On the one hand, decreased tax rates will again increase the price of volunteering. On the other hand, expected future benefits from job training rise as well, since any future inceases in wages will also be taxed at a lower rate.

Tax policy may influence the price of volunteering in more direct ways than by changing tax rates. The tax treatment of volunteering may be varied as well. So, for instance, proposals have been made to allow volunteers to deduct some portion of the value of their volunteer time--somehow measured--from taxable income, much as they do now for money donations.[5] Such a policy would reduce the price of volunteering, and increase hours donated. Volunteering would increase even if job training motivated volunteers, since only the cost, and not the future benefit, of the training is reduced.

B. Income Effect

Tax policy will likely affect volunteering via its impact on after-tax income, although whether hours donated rise or fall as income increases depends on why individuals volunteer. To the extent that volunteers are motivated by the desire to increase the output of a nonprofit organization, we might expect volunteering to increase with income, as does money donations. If, on the other hand, the job training model is relevant, volunteering should be largely unaffected by income increases, since all individuals--rich or poor--would volunteer if and only if the present value of increased future wages brought about by the training exceeds the cost, in terms of wages foregone.[6] Other explanations of volunteering are, of course, possible, and are explored below.

C. Cross-Price Effect

In addition to affecting volunteering via its effect on the opportunity cost of time, taxation will also influence hours donated by its impact on the price of money donations. If the deductibility of money donations was eliminated or its value reduced--as it was in the recent tax law change--

contributions of money would, of course, fall. However, because money and time donations are related, volunteering would be affected as well, although the direction of the effect again depends on the motivation for volunteering.

One possibility is that donors, facing a now higher price of money donations, would switch to volunteering. This would be the case if the reasons for giving money and time are similar--if, for instance, both types of donations are given simply to increase nonprofit goods and services--so that the donor views the two types of gifts as close substitutes. If this is the case, recent estimates of the impact of tax reform on charitable giving may be unnecessarily gloomy. Donations may simply change in form, with little or no impact on the total value of resources contributed.

A second possibilty, however, is that as the price of money donations increases, giving of both money and time falls. In that case, the recent tax reform would tend to have a more severe impact on the nonprofit sector than indicated by recent estimates. This might be the case if, for example, money donors are motivated by the desire to increase nonprofit output, while individuals volunteer in order to gain information about, or influence over, an organization's activities. That is, I may prefer to volunteer, rather than give money, to an organization because I want to see how it operates or because I want some say over its policies. If this is the case, then a rise in the price of money donations would lead to a fall in such donations and, by reducing potential donors' interest in the activities of charities, cause volunteering to fall as well. In reality, of course, donors may have several motives, and the direction of the cross-price effect would depend on the relative strengths of each.

Note that, just as the price of a money donation affects volunteering, the opportunity cost of volunteering will influence contributions of money. The cross-price works in both directions, and we need to account for each when considering the impact of tax reform on the nonprofit sector. A reduction in marginal tax rates, for instance, would directly affect money donations via the price of giving money, and volunteering via its impact on the cost of giving time. In addition, the fall in net wage would affect contributions of money and the increase in the price of giving money would influence the extent of volunteering. Evidence, considered below, indicates that the cross-price effects may be quite large, so that ignoring them may lead to important biases in estimates of the impact of tax reform on giving.

3. Empirical Evidence

A. Volunteering in the Aggregate

Thus far, we have discussed the potential effects of tax reform on volunteering. However, theoretical analysis tells us little about the size of these effects or even, in some cases, their direction. Here we present empirical results, from several studies of volunteering, that provide evidence about these effects and, indirectly, about the motives of volunteers. Results for aggregate volunteering are summarized in Table 1.

Table 1. Summary of Elasticity Estimates for Aggregate Volunteering.

Elasticity[1]:	Price	Income	Cross-Price
Study:			
Menchik and Weisbrod (1985)	-0.40*	+.65*	-1.25*
Schiff (1984)	-0.11	+.14	-.36
Dye (1980)	---[2]	-.02	-.83*

*Significant at .05 or better.

[1] Elasticities equals the percentage change in hours volunteered given a one percent change in price, income and cross-price, respectively.

[2] No variable measuring the price of volunteering was included.

The paucity of empirical analyses of volunteering contrast sharply with the large number of studies of money donations.[7] All three of the volunteer studies cited above utilized the same data source, the National Survey of Philanthropy (1974), but produced different elasticity estimates due to different specifications of the volunteering equation, and different definitions of key price and income variables. This points to the need for additional empirical analyses of volunteering and, crucially, new data sources.

Nevertheless, there is some support for the notion that hours donated are influenced by one's net wage. Thus, one effect of the recent reduction in marginal tax rates should be to reduce hours volunteered. The income effect, however, appears to be positive, so that an increase in after tax income brought about by the tax law changes would increase donations of time. Finally, the evidence indicates that money and time donations are complements, so that the reduction in the value of deductibility of money donations will tend to reduce volunteering as well.

Thus far, we have discussed only aggregate volunteering. However, both Schiff (1984) and Menchik and Weisbrod (1985) disaggregate volunteering by type of organization receiving the donation, and Schiff (1984) also breaks volunteering down by type of activity engaged in by the volunteers. Such disaggregation is useful for several reasons. First, if elasticities vary by type of recipient organization, then tax reform may have quite different impacts across nonprofit industries. Similarly, tax reform may lead to very different responses on the part of volunteers engaged in, say, leadership or fundraising activities than those providing clerical or manual labor. Depending on the types of volunteer activities encouraged or discouraged, the economic value of any change in volunteer hours may be quite different. In addition, the differences in results across volunteer activities sheds some light on the plausibility of various models of volunteering. We turn now to those disaggregated findings.

B. Disaggregated Findings

Menchik and Weisbrod (1985) examined four types of nonprofit organizations--higher and lower education, social welfare and natural resources--and find qualitatively similar price and income elasticities for each.[8] The only notable difference was in the cross-price results; money and time donations appear to be complements for each of the nonprofit types except for natural resources, for which they appear to be substitutes. Thus, an increase in the price of giving money would increase hours donated to organizations involved in natural resource-related activities--offsetting, at least in part, cuts in money donations. Other types of organizations, however, would experience losses in contributions of both money and time.

Schiff (1984) estimates separate volunteer equations for five types of organizations: higher and lower education, welfare, health and combined appeals. He finds significant variation across types. Volunteering to lower education would appear to be most severely affected by tax reform, as the estimated price elasticity is large (-2.64) and significant, and the cross-price elasticity, also significant, suggests that money and time donations are strongly complementary. Thus, not only would increased net wages lead to a relatively large fall in volunteering to lower education, but the rise in the price of giving money would cause contributions of both money and time to lower education to fall as well.

Schiff also disaggregates volunteering into six activities: leadership, teaching, professional, counseling, fundraising and clerical and manual. Of greatest interest here are the results for cross-price elasticities: money donations appear to be strong complements with leadership and fundraising activities, but not with other volunteer activities. Thus, the increased price of money donations due to tax reform will likely lead to a fall in these two types of volunteering. Note that this result appears to be consistent with the "influence/information" explanation of volunteering, since leadership and fundraising are likely to be activities that allow for a good deal of influence or gathering of information. Clerical/manual labor, on the other hand, provides little of such opportunity, and results indicate that it is a substitute for money donations.

4. The Likely Impact of the 1986 Tax Reform Act

We turn now to a discussion of the likely impact, on volunteering, of recent changes in the tax code. While we do not provide a sophisticated simulation at this point, we are able to make some rather broad predictions.

The tax reform affects volunteering in several ways. First, the fifteen current tax brackets are reduced to two, 15 and 28 percent, causing a fall in marginal tax rates for most individuals. This will, other things equal, lead to a fall in volunteering via the price effect--as net wages rise, hours donated fall. In addition, the fall in tax rates implies a rise in the price of giving money, and a further fall in hours donated. This cross-price effect is made more severe by several additional factors. First, the number of itemizers is expected to decline sharply. Those individuals moving from itemizer to non-itemizer status will face an increase in the price of a money donation from (1-t) to 1, where t is the marginal tax rate. In addition, the "above-the-line" deduction of money donations for non-itemizers is eliminated.

Lindsey (1986) estimates that the price of giving for the typical taxpayer will rise, as a result of the tax reform, from .820 to 954, an increase of 13 percent.[9] In addition, net wages will rise by, say, 10 percent on average. Finally, net-of-tax income will rise for some taxpayers and fall for others. Assuming that the tax change is revenue neutral and that tax reform neither increases or decreases economic growth significantly, we can ignore the income effect on volunteering, and concentrate on the price and cross-price effects.[10]

Table 2 presents estimates of the likely reduction in volunteering, given various parameter estimates from Table 1. It should be stressed that these estimates have been made in a very simplistic way, and are presented only as rough estimates to be improved upon in the future.

Table 2. Estimates of the Percentage Reduction in Volunteering Due to Tax Reform, Under Various Elasticity Assumptions.

Price Elasticity:	-0.4	-0.11
Cross-Price Elasticity:		
-1.25	20%	17%
-0.36	9%	6%

Given that the value of volunteer hours is on the order of 50 billion dollars, we can see that the potential loss to the nonprofit sector may be quite large--somewhere between 3 and 10 billion dollars. We can also see that the cross-price effect dominates our results. Changing our assumptions about the price elasticity, or the percentage change in net wages, makes relatively little difference, given the roughness of these estimates.

We can also say a bit about the disaggregated effects, although here we must be even more tentative than above, since the disaggregated elasticities were estimated with only a small number of actual volunteers in the sample. As noted, leadership and fundraising activities should drop more sharply than other tpes of volunteer activities. Given the elasticity estimates in Schiff (1984), volunteer leadership will fall a predicted 45 perecnt while fundraising activities would drop by approximately 33 percent. Note that these activities are likely to be relatively highly valued. As noted, lower education will likely suffer more than other types of organizations, in terms of volunteer hours lost.

While the above calculations are of interest, they serve largely to make clear how little is known about volunteer behavior. We turn now to a discussion of some of the shortcomings of work to date and suggest potential directions for research.

4. Directions for Future Research

Volunteer labor goes unpriced and, for that reason, data on volunteering has been relatively scarce. Those interested in analyzing volunteer behavior have been limited to using survey data, and all such sources share a common shortcoming--they do not include information on wage rates of respondents. This is a rather severe problem for economists since, as noted, the net wage is, or at least influences, the price of volunteering. The lack of wage data implies not only that price elasticities of volunteering cannot be estimated, but that other parameters of interest may be mis-estimated as well. While Menchik and Weisbrod (1985) and Schiff (1984) employ a measure of net wage, it is constructed from data on hours worked, total income and non-wage income. Thus, it is less reliable than actual wage data. More importantly, such a construction limited the sample to a specific type of household, namely those with a single wage earner. Such households may respond in a manner quite different from the population as a whole.

It would seem, then, that future data collection should include the gathering of wage rates. In addition, other labor market information--such as the number of jobs a respondent has, the opportunities for overtime work, etc.--would be useful in measuring the marginal cost of giving an hour to charity. An individual with a high wage rate, but no opportunity to work additional hours, for instance, might have a relatively low opportunity cost of volunteering. Labor market data would also be useful in determining the relevance of the job training model of volunteering. Do volunteers, for instance, experience increased wages after volunteering?

Another topic that has not been explored is the intra-household decision-making process that affects volunteering and money donations. An individuals volunteering may, for example, depend on his or her own wage as well as that of the spouse. The National Survey of Philanthropy (1974) provides much information only for the head of household.

The relationship between money and time donations should also be examined further. In addition to its relevance for tax policy, understanding this relationship would shed light on the motives for giving. In this context, it would be useful to examine changes in giving behavior over time--do individuals, for instance, tend to volunteer first, and then give money? Do they do this for the same organization? In order to shed light on issues such as this, surveys would ideally ask questions that would allow researchers to trace a time path of giving of money and time to each organization to which the respondent donates. Such data would also allow for panel estimation, which would allow us to estimate key parameters more sharply, and to separate differences in giving due to individual differences in tastes, etc., from differences in prices and income.

Finally, all the analyses undertaken so far examine the supply of volunteer labor. They assume that the organization is essentially passive, simply accepting all such donations offered. Future work should, however, consider the organization's role in attracting and training volunteers.

Notes

1.See, e.g., Lindsey (1986).

2.Hodgkinson and Weitzman (1984), p. 13.

3.If an individual is not in the labor force, the opportunity cost of volunteering equals the gross value of home production or leisure, since these activities are not taxed.

4.For instance, 11 percent of all volunteers and 20 percent of teen volunteers cited "Wanted to learn and get experience; work experience; help get a job," as a reason for volunteering (Americans Volunteer, 1981, p.28).

5.For instance, in 1982, one house of the New York State legislature passed a law allowing volunteers who give at least 100 hours per year to deduct 5 percent of the value of their services, up to $500.

6.This need not be the case if capital markets are imperfect. If the rich have greater access to capital markets, they will be able to make more such investments, and so volunteer more.

7.For a summary of these studies, see Clotfelter (1985).

8.Their paper does not provide sufficient information for the disaggregated results to calculate elasticities.

9.Lindsey's estimates are for the President's tax reform proposal of May, 1985, which is somewhat different from the final tax reform bill. However, it is similar in its treatment of charitable giving. In any case, our analysis should be viewed only as producing "ballpark estimates" of the impact on volunteering.

10.We also ignore here the possibility that the elasticities may vary by income group.

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SECTION FIVE:
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THEMES IN INTERNATIONAL RESEARCH
ON
THE NONPROFIT SECTOR

BY

HELMUT K. ANHEIER

prepared for
Panel on
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INTRODUCTION

The purpose of this paper is to explore common and country-specific themes found in research on the nonprofit sector abroad and to compare these themes to those prevalent in the United States. The paper is divided into three parts. Part 1 describes the various types of nonprofit sectors and discusses some of the methodological problems of comparing research themes in a cross-national perspective. In the context provided by part 1, part 2 introduces and compares research themes on the nonprofit sector. Part 3 briefly outlines a number of implications intended to guide future research on the nonprofit sector in a comparative perspective. Underlying this approach is the notion that, particulary in the social sciences, research themes not only reflect scientific but also social problems and the fabric of society at large.

The present paper is based upon an analysis of a directory of international nonprofit sector research (1). The directory describes recently completed, ongoing and planned research on the third sector in countries outside of the United States (2). The directory was a first attempt to collect information on international research on those organizations located between the state and the for-profit world: for example, nonprofit organizations, private voluntary organizations and nongovernmental organizations, philanthropic and operating foundations, self-help groups and local initiatives, and philanthropy and giving.

PART 1

The Nonprofit Sector in Perspective: Some Cautionary Notes

The problem encountered in comparing research themes lies in the varying form in which the third sector presents itself in different countries. Whatever constitutes the third sector in European, Latin-American, African and Asian countries differs greatly not only from the US but also varies within each continent. First, the variation manifests itself in the organizational composition and the differential legal and political treatment of "core" third sector organizations, for example, the National Red Cross Societies. Rosas (1984) has shown that the classification of National Red Cross Societies ranges from "public associations" and "noncommercial membership organizations" regulated under private law, to "mass voluntary public organizations" governed by public law. The next source of variation originates from the borderline problem of organizations which are neither third sector organizations nor governmental agencies, but somewhere in between, for example public agencies in Western Europe or local welfare and cultural organizations in socialist countries. For the purposes of this paper, it seems appropriate to differentiate nonprofit sectors along three dividing lines.

While most American non-profits classified under section 501 (c) (3) of the Internal Revenue Code would also, within limits, qualify for tax-exempt status in the UK, the picture is different in civil law countries. A first large dividing line can be drawn according to the legal and constitutional environment of the third sector, between the common law and the civil (Roman) law countries.

A second dividing line exists between socialist and capitalist countries. Clearly, the nonprofit sector in Poland (where it is part of the so called non-material and non-addressed system) or the Soviet Union (largely in the form of public, i.e. private educational institutions) is radically different from the nonprofit sector found in Western European countries.

A third major dividing line separates developed from developing countries. The nonprofit sector in a country like Nigeria, which even though it has hardly any foundations and few larger charities nevertheless sustains countless informal social clubs and village-based welfare associations, is distinct from the British nonprofit scene, although both share basically the same legal tradition. Similarly, the Togolese or Senegalese nonprofit sector is substantially different from the French one, regardless of the fact that the same legal statute (loi de 1901 sur les associations) regulates nonprofit affairs in all three societies.

At the most general level of classification, we would have to differentiate between the nonprofit sector in

1. developed countries in the common law tradition (e.g. UK, parts of the Commonwealth);
2. developed countries in the civil law tradition (e.g. Scandinavia, continental Europe);
3. developing countries in the common law tradition (e.g. developing nations within the Commonwealth);
4. developing countries in the civil law tradition (e.g. French Community);
5. socialist countries according to level of development (e.g. Angola or North Korea versus Hungary or East Germany); and
6. various versions of socialism (e.g. Soviet Union, Eastern European countries, China).

In terms of quantity, most research is carried out on nonprofits in the developed world. While more attention has been paid to the nonprofit sector in developing countries in recent years, the third sector in socialist countries remains a poorly mapped area.

Numerous examples indicate considerable variation within each group -- variations which seem to depend on two, often interacting factors: the role of organized religion in a country (presence or absence of a state church, religious heterogeneity) and the degree of political and administrative centralization. Take hospitals and health care in civil law countries, for example. Hospitals can be public, for-profit, and non-profit. In some countries, most notably those of Scandinavia, hospitals and health services are basically a state matter. In continental Europe, hospitals tend to be public (municipal), for-profit (private clinics), and private non-profit, while preventive health care and health care extension (communal health) tend to be almost exclusively organized on a non-profit basis.

Another example, the case of rural fire services and lifeboats in three countries, is suggested by Hood (1984): In Britain, lifeboat services are provided by voluntary organizations, while rural fire services are the responsibility of the local authorities. By contrast, in Sweden, lifeboat services are state organizations, whereas rural fire services are run by voluntary organizations. In West Germany, both services are in the third sector.

Far from being a uniform sector, third sector organizations can be organized and constituted rather differently: as large, national welfare organizations, as small community groups, as organizations dependent on government funds, or as organizations reliant on individual donations. Some third sector organizations, which began as small welfare organizations and independent charities, emerge as giant health insurance schemes (such as the German *Krankenkassen*). The three basic third sector organizations (philanthropic and operating foundations, large-scale welfare organizations, and local associations) may not at all together reflect a common theme in a particular country; rather, they may have evolved independently historically, and responded to rather different social circumstances.

For example, the history of Italy's third sector (Ascoli 1985; Ponzanelli 1985) shows that foundations, large-scale charities, and local initiatives entail three different "stories." All are, however, related to the major conflictual ingredients of Italy's complex history: the political philosophy of state intervention and centralization, the semi-official character of the Catholic Church, and strong desires for local or regional independence.

In Italy, charities in the fields of health and general welfare used to be quasi-official church organizations. In 1977, these charities were put largely under municipal control. The school system, with the exception of higher education, is the domain of both public and private (mostly Catholic) schools. Private schools receive no subsidies or funds from the state. Foundations remain few in number and are outweighed by direct corporate philanthropic activities in the field of arts, culture, as well as the preservation and restoration of Italy's historical heritage. Historically, taxation issues seems to play a minor role in Italy (A modern and universal personal income tax system was introduced only in 1973, and only since then has the issue of tax deductions been debated). Local initiatives have a much longer history, and in many cities, concerns about drug abuse, environmental issues, services for the elderly, or art conservation offer new grounds for voluntary local action.

In summary, in a comparative perspective, non-profit sectors vary substantially along legal, political, and developmental dimensions, with significant variations existing within each group. In a sense, an analysis of the evolution and current state of the third sector tells the history of the country, and way in which societies "chose" to govern themselves. As we will see further below, the emergence, development and composition of the third sector are closely linked to the political intersection of central power, local or regional power, and religion.

PART 2

A Common Theme: Reconsideration of the Public and the Private

To some extent, research themes reflect commonly shared social, political, and economic problems: in many countries, changing political and economic tides led to a reconsideration of the "public" and the "private". Yet as most research, particularly in Europe, soon acknowledges, the public-private distinction is often little more than a convenient political metaphor. The crucial point is rather that the distinction between private and public realms has become increasingly blurred (Ponzanelli 1985; AG Verwaltungsforschung 1987; Schuppert 1981; Wilson and Butler 1985). There are two aspects to this. The first is the tradition of mediated or indirect administration; the second consists of various forms of corporatism.

Indirect administration is a form of public administration where the state hands over administrative tasks, power and public functions to semi-public or semi-private organizations. Such organizations, though heterogenous, are distinct from both governmental and private bodies in three aspects. They have a relatively high degree of independence (as seen from the government's point of view), they have their own corporate personality (juridical persons), and they are entrusted with statutory power functions (3).

There are various forms of such "buffer" organizations between the state (public) and the private (Hood 1984:9; Rosas 1984; AG Verwaltungsforschung 1987): the independent public agency (*Anstalt des öffentlichen Rechts*, *Etablissement public à charatère administratif*), public associations (*Körperschaft des öffentlichen Rechts*, *personne publique corporative*), and public foundations (*Stiftung des öffentlichen Rechts*, *fondation publique*). Such quasi-governmental organizations or quasi-non-governmental (Quango) or semi-private organizations are part of the third sector in many European countries and their existence allows the state to delegate public matters to specialized agencies. On the one hand, such delegation reduces the direct organizational size of the state, but on the other, it blurs the demarcation line between private and governmental spheres and preempts activity domains which otherwise could be taken over by private nonprofits.

In countries with a well developed tradition of indirect public administration (e.g. West Germany, Austria, Scandinavia) research focusses less on the direct privatization of public domains than on the blurring borderline line between the two.

First, Quangos have tended to increase in numbers, and subsequently formed an *imperium in imperio* (Hood 1984)-- which leads to the problem of public and private control of the third sector (Seibel 1987). Second, there are what has been called network organizations, linking private, semi-private/public and public domains on local, regional, national and international levels. Examples are new organizations formed on the EEC level (EURATOM, European University Institute) (Hilf 1982) or local and regional organizations similar to the Port Authorities in the US (Taylor 1983). This phenomenon, the tendency of increasing proliferation of cross-cutting organizations (Hilf 1982:254), again, points to the blurring borderline between the public and the private, and indeed, on the EEC level, to the problem of identifying the national from the international.

Corporatism, although related to the phenomenon of mediated administration, presents the second major line of research which reconsiders the private-public distinction. There are many different versions of corporatism (e.g. Alemann 1981), ranging from Hooverism and Roosevelt's design of a National Recovery Administration, to authoritarian forms in Portugal. It has a long history in several European countries such as Switzerland, Austria (Katzenstein 1984) and West Germany. Central European corporatism is the acknowledgement and channeling of deep-seated societal conflict (such as religious or labor - management conflicts) by "peak" associations. These peak associations then negotiate policy issues on the basis of cooperation and coordination, seeking a common solution.The strength of corporatism, regulation of divisive conflicts, is at the same time its major weakness. Corporatism has been criticized on many grounds as undemocratic and "top-down", and as an arrangement which preserves rather than overcomes conflict (see Pantich 1980; Thranhardt 1983).

The "free welfare associations" (*freie Wohlfahrtsverbände*) in West Germany are a case in point (4). The five free welfare associations (1. *Diakonisches Werk* (Protestant); 2. German Red Cross; *CARITAS* (Catholic); 3. *Arbeiterwohlfahrt* (Workers' welfare, secular and historically linked to the social democratic party); 4. *Zentralwohlfahrtsstelle der Juden in Deutschland* (Jewish), and 5. *Deutscher Paritätischer Wohlfahrtsverband* (non-denominational, non-partisan)) were founded in the 19th and early 20th century. Organized in a "peak" association as the Federal Consortium of Free Welfare (*Bundes-AG der Freien Wohlfahrtspflege*) they run 60,517 institutions in the area of health care, youth and family services, as well as services for the handicapped, elderly, and the poor. They provide 70% of all family services, 60% of all services for the elderly, 40% of all hospital beds, and 90% of all employment for the handicapped. The free welfare associations employ nearly 500,000 full-time and about 175,000 part-time staff. The number of volunteers is estimated to range between 1.5 and 2 million. Operating independently but organizationally linked to its 60,517 institutions are 22,120 self-help groups, clubs and local voluntary associations.

CARITAS alone employs more people than the industrial conglomerate Siemens, one of the largest employers in the Federal Republic. Today, the total investment by the free welfare associations amounts to 141.2 billion marks; taking provisions for appreciation still amounts to a total net worth of 70 billion.

While acknowledging the immense importance of the free welfare organizations, critics argue their historical development, which today leaves hardly any aspect of the average citizen's life cycle untouched, is not at all the result of purposive collective decisions to provide welfare and to cater for the public good. Most of these peak associations originated primarily for political reasons; the legal and social policy rationales of the system were introduced afterwards. They did not develop in a coherent fashion, but are largely unintended consequences of sometimes accidental policy decisions (Bauer and Dießenbacher 1984). Thränhardt (1983) argues that the free welfare associations have emerged as an oligopoly or cartel, virtually controlling West Germany's welfare sector.

In the developing world, many countries have begun a major overhaul of their economic and social policies. In the development plans of the 1960 and 1970's nonprofit organizations played a marginal role at best. Development was primarily seen as a matter designed, implemented, and controlled by the state, with hopes that the for-profit world (or nationalized industry) would meet plan targets. In particular in the field of social development, little scope was allocated to the nonprofit sector. The recent increased attention paid to the nonprofit sector is, thus, to some extent, a consequence of a policy of neglect (Anheier 1987b). In the future, nonprofits will most likely play a more central role. The emergence and increased recognition of nongovernmental organizations in many developing countries, particularly in Africa, is also an organizational response to a deep political and economic crisis. Research in this area is still largely conducted by Western scholars (except in India and parts of Latin America). Central research topics are the organizational interface between donor and recipient organizations (in particular self-help groups) (e.g. Smith forthcoming, Tendler 1982), and the relationship between the governmental policies and the third sector (see Dams 1986).

Although little research has been carried out on the topic, in many ways, the socialist countries of eastern Europe offer the most challenging arena for research on the nonprofit sector. Voluntary action and private nonprofit initiatives have often been associated with a democratic state and, indeed, have been regarded as a basic ingredient of a transition to democracy (see Fruhling (1985) on Chile). It is therefore surprising to find some analogue to the nonprofit sector in countries such as Poland, Hungary (Marschall 1985), and the Soviet Union. In Poland, the Catholic church certainly constitutes a third sector organization. In addition, recent years have seen the establishment of special target funds (for example, for the construction of children's health centers or the restoration of historical monuments), which are financed outside the national budget and are, to varying degrees, relatively independent of governmental bodies. In the Soviet Union, the number and functions performed by voluntary organizations, ranging from science to education to sports associations, have increased in recent years (Lee 1986).

Country-Specific Themes

Besides common themes, research focusses on topics specific to a particular country. This is especially the case in countries where a critical mass of research on the third sector has been generated. At present, France, West Germany (two civil law countries), and the United Kingdom (common law) are the three countries aside from the United States which have produced most research on the nonprofit sector.

In France, the "association movement" and the emergence of numerous smaller local organizations are widely discussed. Given that country's historical tradition of a relatively centralized state, the association movement is considered closely related to the decentralization of political power and administration. To a large extent, the decentralization has led to a renegotiation of power at local levels (e.g. Triomphe and Caye 1982; Ferrand-Bechmann 1982; Archambout 1985; LeNet and Werquin 1985).

In the United Kingdom, the "un-loading" of government responsibilities on the non-statutory sector prevails as a major theme. Voluntary associations and local initiatives are expected to fill the gap left by a retreating public sector -- a side effect of increased privatization and reprivatization. To a larger extent than in France or West Germany, research in the United Kingdom is concerned with issues of funding and voluntary labor inputs and the financial aspects of government-third sector relations (e.g. Billis 1984; Wilson and Butler 1986; Jackson 1985; Knapp 1986; Saxon-Harrold 1984).

In West Germany, the tradition of indirect administration combined with less centralized political power, in which the state delegates responsibility to relatively autonomous organizations while providing large parts of the funding, represents one of the major themes. In this case, research focusses on the political and administrative aspects of "corporatism" and the relationship between the state and large welfare organizations (e.g. Grunow et al 1985; Himmelmann 1985; Reichard 1987; Schuppert 1981; AG Verwaltungsforschung 1987; Badelt 1985).

Table 1, employing descriptions used by Independent Sector, presents the frequency distribution of research themes in the US, West Germany, France and the United Kingdom. In total, Independent Sector lists 1185 research projects for the 1982-85 period, compared to 131 projects in West Germany, 143 in France and 220 in Great Britain for about the same time period (5).

The major result to be derived from Table 1 is that research on the third sector focusses on those parts which are perceived as problematic or which are of relatively recent concern. Research in France shows a concentration on historical studies where it often has a pronounced local or regional perspective (see Barraque's (1982) study on associations in the city of Annecy during the third republic, or Rioux's (1982) work on the popular education movement between 1918 and 1939).

Research in the area of economics and finance is more frequent in West Germany than in France and the UK. Taxation issues in the case of foundations (Flämig 1986; Seifart and Hof 1985) and giant housing and building associations (Leisner 1986; Jenkis 1985), and questions of control and regulation in the case of Quangos (Seibel 1987) emerge as frequent themes. Note that taxation and regulation issues are not covered in France (but see Pomey 1982).

Government issues reveal some of the most striking differences, in particular when compared with the United States. Almost every fourth study in France deals with government issues, and almost every fifth in West Germany, compared with only one out of thirty in the United States.

Table 1: Research Projects on Third Sector in the US, England, France and West Germany

Category	USA	W.Germany	France	UK
General Studies	**11.1%**	**5.3%**	**11.9%**	**3.2%**
Anthologies	27	1	6	5
History	49	3	11	1
Philosophy	8	-	-	-
Religion	10	1	1	
Social Theory	31	2	-	1
Psychological theory	6	-	-	-
Economics and Finance	**13.5%**	**10.7%**	**5.6%**	**4.5%**
General	41	3	3	3
Labor	15	1	2	-
Regional studies	44	1	1	-
Tax and regulation	51	6	-	6
Public policy	9	3	2	1
Government issues	**3.9%**	**20.6%**	**23.8%**	**13.6%**
General	9	4	4	-
Federal	20	4	2	2
State and local	8	6	17	15
public policy	9	13	11	13
Management	**14.1%**	**9.2%**	**4.9%**	**20.9%**
General	65	2	5	12
Entrepreneurial	9	-	-	-
Evaluation	10	3	-	9
Fund raising	33	-	-	10
Planning	18	2	1	7
Public/priv.initiative	16	2	-	2
Boards and trustees	2	-	-	-
Leadership	10	1	1	-
Career	4	-	-	-
Comparative	0	2	-	6

Philanthropy	**11.5%**	**5.3%**	**-**	**1.8%**
General	20	2	-	-
Corporations	45	-	-	1
Foundations	36	4	-	-
Individuals	20	-	-	2
Motivational	6	1	-	1
Volunteerism	**7.7%**	**11.5%**	**20.0%**	**24.1%**
General	49	2	9	19
Volunteers	20	7	3	9
Mgt. and finance	5	1	2	7
Recruitment	16	2	3	6
Public policy	1	3	3	12
International studies	**8.4%**	**6.9%**	**6.3%**	**1.8%**
General	39	-	2	-
Countries	51	4	4	2
Comparative	9	5	3	2
Special Industries	**30.0%**	**30.5%**	**33.6%**	**30.0%**
Advocacy	13	1	1	1
Arts and humanities	34	3	1	3
Education	114	2	2	1
Environment/Science	7	2	1	-
Health	48	5	3	19
Human Services	46	6	6	15
Media	7	-	-	1
National Vol. Orgs.	22	7	5	1
Neighborhood/Community	27	11	23	24
Special Populations	33	2	1	2
Other	4	1	6	4
Total	**1185**	**131**	**143**	**220**
	100%	100%	100%	100%

In France and the UK, research concentrates on the state (provincial) and local level. In West Germany, public policy issues dominate. In the US, research on government issues tends to concentrate on the federal level, being less concerned with local issues in this respect. It seems that research on the relationship between government and the third sector concentrates on aspects which are perceived as problematic: the federal level in the US, the local level in France and the UK, and the area of public policy as such in West Germany. More generally, the preponderance of government issues in the three European countries reflects two factors: first, the substantial and sometimes dominant role of the government in nonprofit affairs; and secondly, the tendency to view the nonprofit sector not so much as an organizational universe by itself, but rather as a sector "in between", whose position and role in society can only be understood in relation to the state.

Management issues receive disproportionate attention in the UK, in particular in the area of fund raising and planning, reflecting the often strained financial situation of British nonprofits seeking access to new funding domains. Philanthropy, the focus of every tenth study in the US, receives no attention at all in France, and very little in the UK. In West Germany, research on philanthropic issues concentrates on the legal and taxation aspects of foundations (e.g. Flämig 1986). Note that no research is being conducted on corporate philanthropy in France and West Germany, and very little in the UK (see Cowton 1982; Conference Board 1982).

Turning to the area of volunteerism, it is surprising to find that this topic receives more attention in Europe than in the US. In fact, every fourth study in the UK, every fifth in France, and every tenth in West Germany deals with some aspect of volunteerism, as opposed to every thirteenth in the US. Levels of volunteering are in fact not as different as the frequencies of research topics might suggest: 48% of the West German adult population (Braun and Röhrig 1986:72) volunteer on a regular basis, 72% in the UK at least once a year, and 48% in the US (1985 Gallup poll for Independent Sector).

Looking at special industries, we find that education, the central concern in the US, attracts little attention in Europe, where the area of "neighborhood and community" appears most frequently.

PART 3

The Third Sector and Third Sector Research in Comparative Perspective

It has been suggested that the American third sector is unique (O'Connell 1983), and should be distinguished from all other countries, in particular the European welfare states. This perspective tends to overlook the considerable differences in the role the third sector played and continues to play in other countries. In some European countries, the welfare state, far from being a state matter only, shows considerable involvement by third sector organizations.

The uniqueness of the American third sector is based on three initial 19th century conditions and historical developments: the absence of a national church, the absence of an aristocracy, and the presence of a pronounced local legislative authority combined with a weak national (federal) state. Yet, these three conditions are but one expression of possible constellations between federal power, local power, and religion.

For example, in France the absence of both state church and aristocracy after the revolution, combined with a strong republican or centralized state tradition to produce a weak third sector in the past. Yet these conditions also account for its revival in the form of the association movement and the new localism today. The Italian case is unique because the absence of a centralized state (combined, however, with the legal tradition of state interventionism) coincided with the presence of a strong state church. The German case seems to rest on shifting combinations and balances between local and state power on one side and a bi-confessional system (*cuius regio, eius religio*) on the other. In the Netherlands, the pillarization of Dutch society along religious/regional lines forms the basis of her large and well-developed non-profit sector.

It has been suggested that the size and importance of the third sector are a function of the heterogeneity of society (James 1987; Douglas 1983). Homogeneous countries, such as Sweden, develop a nonprofit sector small in size and of little importance. In contrast, heterogeneous societies, such as the US, the Netherlands or Sri Lanka show a large third sector. While this theory represents a first step towards to development of a comparative theory of the third sector, future research needs to specify the dimensions and differential effects of heterogeneity or homogeneity: why is it, for example, that homogeneous areas in the US, such as the Midwest, show a higher rate of activity in the voluntary sector than heterogeneous areas like the East? In a comparative perspective, research has to a acknowledge the often decisive influence of the political system. For example, France is certainly a heterogenous country, and so are Italy and Turkey. Yet in all three countries and for different political reasons, the nonprofit sector has played a minor role when compared to the US, Britain or West Germany. Moreover, France is heterogenous in linguistic and ethnic terms, but not in the area of religion. West Germany, appears homogenous in linguistic and ethnic terms, but heterogenous with respect to religion. Certainly the political factor, in the case of France and West Germany, accounts for variations in size and importance of the nonprofit sector.

Moreover, how does the nonprofit sector react if heterogeneity increases or decreases? The UK, France and West Germany have certainly become more heterogeneous in recent years, largely due to the influx of immigrants from Southern and Eastern Europe as well as the third world. The little research carried out on this topic suggests that only certain parts of the nonprofit sector react to increased heterogeneity, in particular in the field of local associations. Other parts, however, such as large corporatist welfare associations (Thränhardt 1983) tend to be much slower in adapting to changing needs. In a comparative perspective, future research needs to address the question under what condition certain parts of the third sector are innovative, flexible and pioneering. Some evidence suggests that the degree of innovation and flexibility in particular parts of the third sector depends not only on its overall composition but also on vested interests and government - third sector relations. A final topic relates to the increased international character of the nonprofit sector, in particular in the are of international integration (e.g. EEC) and third world development. What are the political, legal and economic implications if third sector organizations travel from one county to another?

Notes

(1) Helmut K. Anheier, "International Directory of Research on Third Sector", Yale Program on Non-Profit Organizations Working Paper, Yale University, 1987a.

(2) Between November 1985 and March 1986, names and addresses of individual researchers and research organizations working on the third sector and related areas were collected. This was achieved by:

- contacting individuals and organizations central in the field;
- collecting and updating lists of researchers provided by a number of individual researchers;
- collecting national directories;
- contacting major social science research institutions worldwide.

Based on this information, letters including a research summary sheet were sent to nearly 500 individuals and organizations, of which about 280 replied by October 1986. As some contacted institutions or individuals were no longer working in this area at all, and others were retired etc, the number of "valid" returns was reduced to about 240.

The directory intends to supplement "Research in Progress", a yearly publication on research projects on the third sector in the United States, available from Independent Sector in Washington, D.C. Future editions of the international directory will be published by Independent Sector.

(3) Currently, the Department of Law (Prof. A. Rosas), Abo Academy, Abo, Finland, is conducting a comparative project on indirect public administration.

(4) Data reported in this paragraph are from Bauer 1985 and Bundes AG der Freien Wohlfahrtspflege 1985. On the history and critical assessments of the free welfare organizations see Sachse and Tennstedt (1981), Heinze and Olk 1981, Bauer and Dießenbacher 1984.

(5) Data for the U.S. are from Independent Sector's Research in Progress: 1984-85, and cover the 1982-85 period. The U.S. data are most likely over-reported as they contain, in some instances, projects reported over several years. Moreover, the U.S. data also include research projects from Europe. The European data are most likely under-reported because the directory coverage is more incomplete for France, West Germany and the UK, than Research in Progress is for the U.S. Table 1 should be interpreted with some caution. Consequently, we will point only to large differences across project descriptions.

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VOLUNTARISM IN FRANCE: SKETCHES FROM LIFE, PICTURES OF RESEARCH

by Dan Ferrand-Bechmann

Prepared for the 1987 Spring Research Forum held by INDEPENDENT SECTOR, March 19-20, 1987 at the Vista International Hotel, New York, New York.

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1901 Law

In the independent sector, one famous date and crucial law is 1901. It is a very special French law. Since that time, people who want to settle a group have to declare it to the Prefecture, giving the names of the people of the board, its address and its goals. This law is one of freedom, according to the various 19th century repressions against the freedom of association. That law followed the 1886 trade unions law. But it appears to be also a law of control, according to the fact that every association is registered and their goals explicitly written in the Official Journal. Those which are registered benefit from various tax exemptions and may organizations have used that sort of structure to have good fiscal possibilities through performing nonprofit associations.

Plenty of associations are very near corporations and businesses, they use formally that 1901 legislation. It is possible when their goals are near social or cultural ones. Until recently, these quasi-associations were mainly involve in the provision of human betterment and cultural improvement. Their boards have to be administered by volunteers.

Associations which are in the private sector but operate with a lot of public money comprise a large part of the independent sector. To act the larger or largest of associations, part of the workers and staff are payed. Part of them of course are volunteers. Among 700,000 associations, there are 700,000 paid employees and approximately two million volunteers, who work the equivalent of 500,000 full-time jobs.

Definition

The definition of volunteerism is unpaid and freely-willed work. It is not easy to establish every time the distinction between leisure, family, obligatory tasks and voluntarism. The boundaries between the various human action: voluntary ones or not, change from time to time, from society to society, and even from group to group.

Volunteers are working among large associations in which the goals are decided mainly by the staff, other volunteers are working in small informal groups even as individuals helping their neighbors. Volunteers in fact are "prosumers" involved in self-help groups, others are producers of services.

One has to identify the field of voluntary action. Many differences exist between those who act to fight for an idea and those whose contributions are pragmatic, provided on a daily basis, such as helping young enterprises, repairing clothes for poor people, or giving meals to senior citizens.

In our French society there is less and less work and volunteerism could appear to be occupational. It is also a way of participation and of empowerment. Many formal and informal networks have disappeared and new needs, such as those answered by families and small communities have appeared. The two phenomenons: lack of occupations and more free time for young and older people but also new demands and new needs give way to the extension of volunteerism.

In addition to lacking welfare networks at small group levels, the State had given little interest and less and less money to light social work tasks very important to many people. Our social workers are very good in giving legal advice or intervening to face Justice or police. But they have little time to care for young children or senior citizens. It appears that many tasks could be performed by paid people or by volunteers. Some tasks remain unperformed because professionals claim to have more money or more colleagues and struggle against volunteers. One example is that of public libraries, which are closed several hours each day. In the meantime volunteers could claim to find voluntary work and would be glad to work in these libraries.

The increasing number of volunteers took place in a jobless society. It is a paradox that many tasks are not performed and many people have no tasks to perform.

It is true to say that paid work and voluntary work is not the same and that paid workers and volunteers are not the same actors. But many tasks remain unperformed. If there is very little definition of what is voluntary work, there are many definitions of what is the field of such and such profession. By comparison rises the field of what is volunteerism and what is its definitions and boundaries.

In France, there were very little way of supplementary tasks between paid and unpaid people since the boom of senior citizens (1). Many of them claim for volunteerism because of boredom, loneliness and habits of work more than habits of the heart. Their needs for integration and socialization have then given place to altruism and community participation. Volunteerism is for many people an alternative to hobbies such as gardening or baby-sitting or cultural activities.

Other citizens are militants and act to fight for an idea or that of human solidarity, or simply do it to respond to the various simple demands that the State or the private institutions cannot afford to answer.

In order to tackle the huge problem of poverty, young students have organized the distribution of free meals, or they travel to Africa to care for ill children or struggle against day to day racism and segregation. These ways of volunteerism are quite important and their members are more and more numerous, developing new forms of charity business and philanthropy to operate their humanistic values.

Sociological Paradox

From a sociological point of view, volunteerism is a new form of participation face of the rise of the Welfare State or face its decline.

Volunteerism is one of the important manifestations of solidarity beyond the jungle...(2) and community involvement in high valued activities. Welfare State had developed the idea of obligatory responses to social needs, which have been not covered in other epochs such as leisures for handicapped children. In our European democracies many solidarity obligations have now to be acted by the State or the voluntary bodies.

Is volunteerism a new way of solidarity because the social networks such as families, neighbors and friends are less effective? Is volunteerism a new way of free interrelationship face the decline o family and community obligations? One can now choose his association and co-affiliated members. One cannot choose his neighbors and family. It suggests that volunteerism allows freely chosen networks.

Is volunteerism a reaction against hard conditions of work? That perspective gives way to various interpretations when one looks at the choices made by volunteers such as high level managers who volunteer for manual and simple tasks or unskilled workers who volunteer for high technical or intellectual tasks. Is volunteerism through 7000,000 associations a free way of liberation toward new identities? From a sociological perspective, many social determinants reinforce people to volunteer for similar tasks than they perform in the other spheres of their lives. But surely many volunteers look for new interests and new tasks than what they have in their day to day life. The question of motivations to volunteer is not very fashionable among researchers, though it could bring new perspectives to social science. Volunteerism is a new subject for social scientists and a taboo one.

For year the focus was more on the organizations, many sociologists were thinking that their business was not to study motivations. That subject was considered as the concern of psycho-sociologists.

Self-Help and Volunteerism

There are two trends in voluntary action. One is to help people who have the same problems as you have. Self-help groups reflect a community of interest. Some authors have suggested that it shows that new values to reinforce communities have emerged, it may be also simply in France a system to answer quickly to needs and a way to affiliate to a little group. Self-help groups are numerous in France but they are segregated.

A systematic evaluation of their characteristics would show that they emerge among marginal groups. It is a way to address unsolved problems which are neglected by the State or by voluntary associations largely financed by public money. Some of these groups are run by young people who do not want to collaborate with the State or local communities.

It could be quite uneasy to identify a self-help group: neighbors who exchange the care of children in the same proximity, or friends who organize cultural activities. They could also discuss each other's personal problems or do a lot of very private activities in common. But in fact, they are just people acting together in a group named or not named association.

Another type of group is the classical association, which helps or care for people who have specific problems. In many cases, those who are affiliated with these groups are not concerned by the need they serve. Their commitment to caring is altruistic. For example, there are members of an association of handicapped people, but they are not handicapped themselves. On the contrary, our association of researchers on voluntary action is welcoming only researchers.

Even though the French researchers use more the term of associations than the term self-help, they both have to be mentioned. Associations are formed by people, who have the same goals if not the same problems. But the real ones are self-help groups. The others are quasi- associations, which deliver services. One important difference is the fact that donors and recievers are different in associations, they are similar in self-help groups.

Who? Whom?

In recent years volunteerism in France has changed. There are volunteers in more parts of the society. It is no more the privilege of upper-middle classes. There are also workers and employees who are volunteers. More and more people from various age groups and both genders do volunteer.

It is a new social equality face voluntary work. The privilege of caring is now more democratic and spread over social classes. Nevertheless some are ore volunteers than others.

Among working class, employees and immigrants, we could speak about mutual-help. It is near day to day solidarity and it is constituted by voluntary acts. These boundaries between all forms of volunteerism, informal care and solidarity are very hard to distinguish.

To whom voluntary action and volunteerism is directed makes the difference. For example, those who need help and care, or suffer from social or cultural poverty are the receivers. If a large survey would be done, it would suggest that difference between the donors and receivers (3). The example of the poor clients is a good one because it is a big component of voluntary action in France in 1987. One recent reason for the increasing of volunteerism is the important action made against poverty, what l'Abbe Peirre calls the war against poverty. More and more middle class people try to help efficiently and to prevent the problems. We have no tradition of large philanthropic organizations as they exist in the United States. Because of our large system of social policies, the question is more or less the responsibility of the State. But things have changed and the independent sector now has to face the very large problems that the State and public opinion has left for them to resolve. The clients of these large charities are poorer than those who are normally helped by the State and who benefit from regular allocations.

The first analysis of the 500,00 situations faced by one of the biggest associations in Paris shows that:

- a third have no resources
- another third has less than five dollars a day
- a quarter does not pay rent
- half are jobless
- half have asked for food, one-third have asked for clothes or furniture
- a third are single parents

This approach shows that there is still a large action to be done by privileged people to help and support poor people.

A part that traditional volunteerism, stand more innovative and flexible action which try to answer new needs or new social problems and whose clients are ore diverse. Such contributions are very important and are taken in charge by the State when there are pressures to do it.

So they became part of the statutory social services and delivery systems. They are the roots of our actual service, dealing with the more acute problems and bringing new innovative trends into the independent sector.

Conflicts in Volunteerism

It is important to realize that comparing to other European countries, there is no consensus about the independent sector, and this remains problematic. That paradox of that society, where there are so many jobless and so many people without occupation or goals will not be resolved soon. There is no possible consensus and the recent shift toward a more conservative government has not changed the situation yet. Participation was a main goal of our socialist government. Privatization is that of Chirac's government.

Conflicts are numerous, even if they are less numerous as they were some years ago. Perhaps the facts that there were many creations of intermediate and light jobs especially for young people, have dissolved the notion and the theory and the definition of division of labor and work. Conflicts come from those who have to prevent their professional territory and specialism against volunteers. There are also discussion a propos amateurism and professionalism. The more competent specialists fear the volunteers. When a wave of young retired citizens had set up an association to help the enterprises, young professionals were terrible anxious of this challenge. The social order was very much disturbed. Especially the basis of the French social system in the field of social action is still professional social work.

Similar effects were more severe since pensioned social workers began to volunteer. They were hard to defend this idea that they have fought recently.

Another conflict is between the State and the charities. We do not measure or evaluate voluntary action in France and therefore public administrations are suspicious and do not realize how large is the volunteer force (4), though the new utility of these large associations is very well recognized in many particular programs. For example in the poverty program, the administration of the French departments, to whom the State had given a large amount of financial assistance, had given it to local charities, because they did not know how to use it rationally and efficiently.

Since volunteerism has more and more positive effects it is more and more well accepted and new initiatives flourished all over France. Professionals are likely to cooperate informally if not officially. But they do it on a face to face basis with local associations. The complexity of services and bureaucracies gives way to new complementary role for volunteerism.

Research

The description of the field of volunteerism indicates to us what questions need to be answered by researchers. Very few research on the subject of volunteerism has been done comparing to those on the sociology of the religion, organizations, social work etc.

In a recent report on the state of research (5), we could have discovered the importance of the economics point of view (6). Contradictory these researchs have studied the problem of gift, previously studied by a famous sociologist M. Mauss. Some have done studies on sport in the perspective of the role taken by volunteers in the board (7). Many recent studies have focused their questions on the problems of the paid work inside associations. In the recent jobless context, it had appeared that many jobs have been created in the independent sector. In looking at that phenomenon, we discovered the role of volunteerism and its weight (8). The goals of these associations are legally established by volunteers, who are in fact the legitimacy of the independence of this sector. But apart these advertising role, they do real work and contribute a lot. They have responsibilities in the functioning of the delivery of services. Some people of the staff are volunteers. Before to be paid, some have been volunteers. Before to be volunteers some have been paid. All these conflicts but mainly these new patterns of work are studied.

The historians have made quite a lot of studies on history of associations. They focused on the genesis of services, now statutory and formerly volunteer. They try to look at the spirit of volunteerism in these statutory structures, they do explore the contradictions of the components inside these paradoxical institutions. The goals of their origins still move the actual goals. The charitable motives of the first social services gave way to more professional goals but the technical skills are not totally free of ideology coming from years ago. Few researchers look at the role of philanthropies, apart from the school of Foucault in a strict historical perspective focused on institutions.

The sociologists have emphasized the role of voluntary bodies or volunteers in allocating social policies and social services. They look at the ambiguity of the structures, which are governed by volunteers and acted by paid people. They look at the question of power and the struggle to share it. They have studies the role of community workers and social workers in the associations with very few questions about volunteerism.

As long as there were plenty of jobs, it was possible to choose to work for an association, whose goals your agree with. But with the narrowing of possibilities, people take a job when it is possible even when their values or ideas are different. That question was very fashionable among scholars.

The question of lobbies has been studied, mainly because they bring interdisciplinary perspective, but also because it is the hidden have of the associations. There are in France large groups of associations, which are really powerful. One was near the Prime Minister Maurois, other ones are near left or right political parties.

Many articles are more ideological than theoretical, very few data have been collected comparing to U.S. data! Most of the problems have been studied by one author or by a student's master. A very relevant report, has been made by J. P. Suer on the question of volunteerism and senior citizens. It was more or less a discussion on the legislation. He was given a list of the possible fields for volunteering.

No general study has been made. I was quite alone and lonely in the field of volunteerism! That is the reason my focus has been since seven year quite large. Now we are more. The subject appears in some reports or articles. Volunteerism is less taboo and less ambiguous.

My concern was to give a definition and to do it through various examples and comparative studies. Then I tried to collect data, to try to describe the phenomenon and to evaluate it. I have done several monographs on various cases. To explore that new subject, I have done photographies of volunteerism in rural sectors, in urban ones, among both genders, all age groups, among associations whose aims are quite left or others more traditional , among poor people... I have made a report collecting examples, data, definitions and monographs, articles on self-help, in cooperation a report on employs in associations, a series on old citizens, one quite important on the state of the research, another comparative an association in housing. In 1984 I studied philanthropy in the United States with a Tocqueville grant, then I had a charge as an expert in the former government and could work with new perspective and a new vision. I had to evaluate the weight of volunteerism. Now I work on the problem of poverty and especially on the characteristics of the clients of the big charities.

My problematic is oriented by Durkheim and Touraine and I study in fact division of labor and social movements...

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7. See the research of C. Malenfant IRESCO 57, rue Pouchet 75017 Paris.

8. See the review of FONDA 18, rue de Varenne 75007 Paris.

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CHARITABLE GIVING BY INDIVIDUALS IN GREAT BRITAIN

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CHARITABLE GIVING BY INDIVIDUALS IN GREAT BRITAIN

INTRODUCTION

The history of giving by individuals in the UK goes back a very long way. Gildas' history records that the Emperor Hadrian encouraged the construction of a defensive wall between England and Scotland by contributing half the cost from State funds on the conditions that individuals on the English side contributed the remaining half. More recently, if recent is a correct description, is the 1601 Queen Elizabeth I Poor Law which sets out to encourage individuals within each Parish in the country to make a charitable contribution to the poor not so much for altruistic reasons but in their own interest in order to reduce vagabonds and undesirable people, who driven to extremes by their poverty where creating disturbances. Plus ca change plus c'est la meme chose. One of the ironies of English philanthropy is that it has best been written up by Professor Jordan who in 1952 was the Professor of History of Harvard University.

And so through Victorian times when the system of Church Charity and the establishment of Poor Houses systematised the philanthropic ideals of those puritan and serious minded people, until the 1930's, and more importantly the General Election of 1945, when a Socialist Government was returned to power. From that time onwards it appeared that the development of English philanthropy would be overshadowed by the welfare state. In simple terms social justice could no longer be left to chance. Thus during the 1940's, the 1950's and until the late 1960's, in the United Kingdom as in some Scandanavian countries, it appeared that charity would become a minor complement of, even peripheral to, ever-increasing services provided by the State. This was not seen with any regret by the people of the United Kingdom rather it seemed to them yet another pioneering national first. But then disillusion set in.

This disillusion may be described on two axis. First, questions of cost. Despite increasingly comprehensive definitions of need and bigger and bigger a budgets within for example health, social services or the education field, every year the gaps in provision seemed to be as wide or wider than ever. Second, there was the question of the involvement of individuals. It is now recognised by some people that providing all services from the State does not make for a healthy society either for the recipient of the services or for the indirect donors (i.e. the tax payers).

Therefore between the years 1975 and 1985 we have seen a slow but steady change of attitudes from "welfare statism" to a more state/voluntary sector provision of welfare and other services. The significance of this sea change in attitudes should not be underestimated. It was inconceivable in the 1960's that the popular mood should be one which would even consider in part that many services should revert to being provided by charities.

But the extent to which it is considered that the State should withdraw from the provision of services should not be exaggerated either. The British position at this time is that there should be a reconsideration of the relative roles of the public and the private sectors. Needless to say this makes the examination of concepts such as public/private partnerships extremely significant and very urgent.

THE PRESENT SITUATION

The evidence about private sector support whether it is from individuals or companies is pretty sparse. An analysis of the Family Expenditure Survey (a Government sponsored survey of the habits of households) indicates that until the year 1981 individual contributions were declining in real terms. In the corporate sector for the last ten years contributions have been slightly less than 0.2% of pre-tax profits.

The reasons why private sector support particularly from individuals has declined in real terms is not only because of the expectations of delivery from the State, as described above, but also because of the overwhelming effect of inflation. For example inflation in 1978 ran at 28.5%; in these circumstances who could reasonably expect individuals to increase their contributions in real terms? As companies were concerned the economy was running down and Chief Executives found it difficult to justify to shareholders any increase in any contributions not immediately affecting profits, even survival.

The principal catalyst of change in this situation has been the present radical Conservative Government. In particular Mrs Thatcher, the Prime Minister, has campaigned for an increase in self help and for the sort of values which lead to an increase in personal involvement. However it must be said that from 1979 when she first took office until recently no real incentives to increase donations were provided - rhetoric took the place of policy. In these circumstances a number of Chief Executive Officers of companies were brought together to discuss initiatives of a non-governmental nature that might create a resurgence of private sector support. Under the patronage of His Royal Highness the Duke of Edinburgh, the Patron of the Charities Aid Foundation, a series of meetings held at Buckingham Palace of some 50 or more Chairmen of companies decided to form a task force which was subsequently named The Council for Charitable Support.

THE COUNCIL FOR CHARITABLE SUPPORT

The Council for Charitable Support has a personal membership, but as it happens the members tend to be the Chairmen of Institutions relevant to increasing private levels of support to charities. Hence the Chairmen of Business in the Community, a very powerful organisation designed to create employment and to increase training opportunities in the communities of Great Britain, is a principal member of The Council of Charitable Support, as also are the Chairman of The Association of Business Sponsorships of the Arts, the Chairman of the National Council for Voluntary Organisations, the Chairman of the Volunteer Centre, the Chairman of the Charities Aid Foundation and so on. Early in its proceedings The Council decided to refine its aim to the simple one of increasing levels of private sector support. Subsequently the Council decided to set itself the target of doubling the levels of support from the private sector within five years.

Although The Council for Charitable Support is of more recent origin than The Independent Sector, and its programmes concerned to raise levels of private sector support are not yet as detailed, they are similar; the first draft paper concerned with measuring targets is at Appendix I. Consideration is now being given to the programmes in the various fields, for example education fund, welfare, health etc and also to general programmes concerned with reinforcing changes in attitudes by individuals and companies.

In respect of attitudes, The Council has already produced a set of Guidelines indicating what in their view companies should be doing with regard to their own responsibilities. (Appendix II).

All this begs the "research" question of how The Council how set out to define its base line. Givingby individuals in the United Kingdom, as in the United States, is about ten times that of corporate giving thus the first priority for The Council was to establish a base line for individual giving.

THE 1,000 HOUSEHOLD SURVEY

For various reasons The Council could not rely on existing information, it therefore commissioned an annual survey to run for five years of the giving habits of 1,000 households.

The survey takes the form of an interview based on a questionaire towards the end of which attitudes and behaviour with regard to individual charities are examined. These charities have assisted with the costs because of the marketing value to them of this research. This does not effect the objectivity of the earlier general questions which are of more interest to The Council for Charitable Support.

From the first survey it would appear that in the United Kingdom each household gives on average £70 per year to charity; this is about 0.7% of gross income. Whilst this is well below the levels of support which American households give, it was nevertheless a delightful surprise to learn that British households give as much as they do. It would also appear that to us a surprising number of individuals enter into regular payments to charity. The survey indicates that some £250 million, or 11% of all households, make regular payments to charity. This takes the form of giving by covenant or by standing order from banks or similar methods.

A summary of the remaining findings from the 1,000 Household Survey are to be found at Appendix III.

THE 1986 TAX CONCESSIONS

Since its inception the Council for Charitable Support has been working in a way which has not yet been referred to. Whilst The Council has never considered the tax break to be the most important factor in determining how much the private sector gives it recognises its importance. Therefore The Council called together the institutions with an interest in optimising the tax situation. Recommendations were sent to The Chancellor of the Exchequer in the Autumn of 1985 and these led to a series of discussions with Ministers which came to fruition on March 18 1986, the date of the annual budget for the nation.

In essence the Chancellor made three concessions.

First to Companies:

Companies may give once off donations to charity tax efficiently. Up to 3% of shareholder dividends, which is about the same as 1% of pre-tax profits. Hitherto companies have had to use a four-year covenant.

Individual Covenants:

Using the covenant system individuals may give an **unlimited** amount tax-free to charities in the United

> Kingdom all their income if they so wish regardless of personal tax level.
>
> Payroll Deductions:
>
> From April 6 1987 individuals, given that their employer is willing to make the deduction, may ask for regular deductions up to £120 per annum to be made from pay on a tax free basis to charities of their own choice.

It is The Council's belief that these tax concessions are likely to increase private sector support for charitable activity substantially.

The most important is likely to be the payroll deduction concession which allows individuals in the United Kingdom a variation of the United Way scheme. (There are distinct differences between in the United Kingdom and the United Way scheme)

What is also important is the clear indication from government of their desire for individual involvement; which serves to underline their real intention to encourage greater levels of private sector support.

SUMMARY

There is no doubt that there is a reawakening of individual participation in community services which the last thirty or forty years have been increasingly the responsibility of the state. This is because we have run up against the realities of delivering "social justice" from the state alone. But it was a civilised dream and has not been abandoned. It is being modified.

A change in attitudes and expectations on the part of companies and individuals is taking place.

We find that we have still a flourishing charity sector (there are for example over 150,000 registered charitable organisations) and donations from individuals are relatively high (0.7% of income).

The task for organisations like The Council for Charitable Support, indeed the Government itself, is to reinforce these changing attitudes to the point where it will seem normal for people once again not to rely upon the State for the provision of everything.

For reasons therefore of necessity, no doubt to be rationalised as policy in due course, it is likely that private sector initiatives in the United Kingdom are once more in fashion.

APPENDIX I

SETTING MEASURABLE TARGETS

Introduction

The Council has agreed to set targets for its aim to raise levels of private sector support. These should be challenging, but feasible. They should also be capable of being monitored.

The Overall Intention is to double private levels of support within the next five years.

Present Levels of Support

Giving per Household is 0.69% of Gross Income.

Giving by UK Top 400 Companies is 0.2% of pre-tax profits. Giving per individual is not known nor is the level of giving by companies overall.

The giving habits of 1,000 Households will be monitored each year from now on. Random samples will be used to provide more if not complete information on company giving; these will be carried out each year also. At present a survey is being conducted of the smaller companies (less than 100 employees).

Targets

After considering these existing levels of giving, The Council has set itself the task of raising individual support to 1.4% of gross household income and corporate support to 0.5% of pre-tax profits by 1991. Consideration will then be given to a second five year plan.

Monitoring Statutory Support

One of the "problems" concerned with establishing appropriate levels of support in the UK is existing levels of statutory support. The Council feels that if increased private support is seen merely to replace reduced statutory levels, this would not be the way to increase private giving. Accordingly The Council will monitor statutory levels of support in order to be able to rebut the claim (if such be the case) that the new levels of private support are merely replacing state support. The Council recognises the possibility that at some future date a debate may be needed about a gradual withdrawal of statutory levels of funding, but the next five years is not the time for it.

Public/Private Partnerships : The Next Step

Of intense interest is the broad area between private and statutory responsibility. The Council has agreed with Government to research this area in what is seen as being itself a Public/Private Partnership. Analysis of what exists at present will be developed into recommendations about the partnerships appear to work best in various circumstances.

Now that the tax climate has been made more favourable to private giving the next step in encouraging more of it is seen to be the promise (for example) of matching funds from the statutory side.

At the very least this will move services from being all-state to mixed private and state.

Specific Programmes and New Mechanisms

Other than tax concessions and increased co-operation between private and public sectors, programmes in the mainstream areas such as Education are being considered. First is the need to change attitudes. For example: why is it that so many are reluctant to make donations to their own schools simply because they are basically State Schools?

In many cases new mechanisms will be required to encourage and to focus new private support. Examples of these are Community Trusts and Payroll Deduction Schemes; there are many others.

APPENDIX II

Company Support for Charities

GUIDELINES

presented by: The Council for Charitable Support

THE COUNCIL FOR CHARITABLE SUPPORT

The Council for Charitable Support was set up in 1985 by a small group of senior business people with the objective of encouraging wider understanding of the need for higher levels of financial and other support for charitable and voluntary organisations.

It gives priority to furthering the means for attracting such support, including through changes in taxation policy, initially through encouraging more support from companies. In the longer term it is working to promote more private giving by individuals.

The Council is serviced by the Charities Aid Foundation and works closely with Business in the Community and the National Council for Voluntary Organisations.

Chairman: Lord Goodman C.H.
Secretary: Michael Brophy
Address: 14 Bloomsbury Square, London WC1A 2LP

THE COUNCIL FOR CHARITABLE SUPPORT

The Viscount Caldecote KBE DSC F.Eng

The Rt Hon Lord Carr of Hadley PC

Sir James Dunnett GCB CMG

Mrs Diana Eccles

Sir Reay Geddes KBE

The Lord Goodman CH - CHAIRMAN

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The Rt Hon Lord Murray of Epping Forest

Sir Arthur Norman KBE DFC

John Pontin Esq

Kent De M Price Esq CBE

John M Raisman Esq CBE

John J Salisse Esq CBE

Sir David Steel DSO MC TD

Lady Wagner OBE

Sir Mark Weinberg

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FOREWORD

Charity is a simple and a virtuous emotion. It is also one of the most gracious and kindly emotions to be found within the human mind, but its simplicity and kindness is not alas reflected in the moral, judicial and legalistic problems relating to charities in this country. They are of a byzantine complexity; a barbed wire entanglement requiring a sure and deft step to avoid catastrophe.

At the time of writing these few words the Judicial Committee of the Privy Council has ruled that a most worthy bequest failed as a charitable trust because the connecting preposition was a disjunctive one i.e. "or" instead of "and". It is this kind of risk that enables the most worthy of intentions to be defeated by what can only be described as demented legalism.

It is for this reason and many others that the Council for Charitable Support has come into existence; to address the problems surrounding charitable intentions and their fulfilment; to encourage charitable gifts to deserving causes; to explain the benefits both material and ethical to donor and donee alike; and generally to promote the art of giving as an important human and national activity.

Goodman

July 1986

GUIDELINES

There is no one model for company charitable giving — but these guidelines will help

These guidelines should assist every kind of company to manage its relations with charities.

There is no single best approach but they draw on the rich variety of existing good practice.

The Council for Charitable Support invites companies in the United Kingdom to adopt these guidelines.

WHY DO COMPANIES GIVE TO CHARITY?

The primary contribution of companies to society is the generation of wealth; It is in the interests of society that companies are prosperous.

It is in the interest of companies that the society in which they do business is also prosperous and healthy materially and spiritually.

Companies contribute to the community in many ways. An important one is by supporting the charities which are so much a feature of our British way of life.

Companies say it is in their business interests to support charity

Companies give to charities for both business and altruistic reasons. They say that . . .

Charitable giving is good for a company's reputation in the neighbouring community.

There is a clear and growing expectation within society that companies should be good citizens.

Charitable support helps project a positive image of the company.

Many people in industry not least employees wish to help charity.

Shareholders in practice rarely complain about the company's decision to give to charity. Institutional shareholders rate companies higher if they show responsibility to the community (and no less a person than The Chancellor of the Exchequer related giving to shareholders' dividends in the 1986 Budget).

Companies have a responsibility to shareholders to manage charitable giving efficiently

For these reasons charitable giving must be at least as well managed as other aspects of the business. This is often not realised.

Smaller companies particularly will want to ensure that every penny counts.

A policy with clear objectives is therefore needed.

THE NEED FOR A CHARITABLE DONATIONS POLICY

Once a company has decided that it will make contributions to charities it is important to create a policy. Leadership from Chief Executive level is desirable. A written policy can help clarify objectives and provide a means for assessing progress.

A charitable donations policy should be flexible and reviewed at intervals by asking questions such as:

There are many advantages in adopting a clear and simple company donations policy

What are the priorities for support?

Who is making the actual decisions in the company?

How are employees involved?

What is the procedure for dealing with applications?

How do charitable donations dovetail with other forms of contribution?

How is the company communicating the programme to employees, shareholders and the outside world?

HOW SHOULD EMPLOYEES BE INVOLVED?

Employees should be involved as much as possible at every level

Employees should be involved, for the workforce have contributed to the generation of wealth and in addition many give of their own time to charity. They often have unique experience of local needs. In many circumstances the Trades Unions will be involved and will have relevant experience: their leadership should be a factor in bringing management and employees together on welfare and community issues.

Employees can be directly involved in raising funds, whether through ad hoc collections or by making regular charitable deductions from the payroll. From April 1987 these will be tax-free up to a limit of £100 per annum per employee. But just as importantly employees can be involved in establishing programmes and selecting charities and also encouraging colleagues to offer their skills and time.

Some companies will wish to encourage employees by offering to match funds, such as £1 for £1 or something similar. Several companies claim that this promotes a common interest which has very favourable results for all concerned.

HOW MUCH SHOULD A COMPANY CONTRIBUTE?

There is no single approach to deciding how much a company will give. A great deal depends on the position of the company and perhaps current profitability. Some companies choose to set a target expressed as a percentage of pre-tax profit.

Some companies set a target for their charitable contributions

For example, a group of Chief Executives have recently formed a "Per Cent Club" with the aim of encouraging companies to adopt targets related to pre-tax profits. If companies wish to follow the Chancellor's thinking by relating their giving to a percentage of shareholders' dividend, they will note that the present limit of 3% of dividends for tax-free single gifts is on average about 1% of pre-tax profits. (No limit has been set on giving under covenant a system which many companies will continue to use).

What companies decide to include as part of their contributions is not yet standard. Some simply calculate donations to registered charities. Others include contributions to organisations not charitable in law such as youth training schemes and enterprise agencies; many include the cost of staff secondment and the provision of "in-kind" support such as premises, materials and equipment.

Typical of the difficulties is sponsorship of activities such as The Arts. Whilst these are often done more for commercial rather than charitable purposes, they result in considerable community benefit.

The guiding principle is that whilst making as much of the whole contribution as is reasonable, charitable activity must be distinguishable from commercial and when the two overlap a company should not be tempted to overclaim to meet self-imposed "targets" or for the sake of favourable publicity. As far as possible therefore, that charitable part of a sponsorship which is part charitable and part commercial should be shown separately.

In time the conventions of good practice are likely to become more standard.

WHICH CHARITIES SHOULD COMPANIES SUPPORT?

The company decides which charity to support but a clear policy helps all concerned

Which charities a company chooses to support, to what extent and over what period is a matter for the company to decide in the light of its own circumstances and position: for example a company's products or services might suggest particular research or educational programmes for support because of the company's special knowledge. The absence of any policy based upon such factors may restrict the company to making a passive response to applications (so called "Reactive Giving") which is unlikely to be very effective. Having clear priorities will improve decision-making, allow for evaluation and also help charities, employees and others to know where they stand. It also makes it easier to explain refusals to charities which the company chooses not to support.

In developing a contributions policy it has often been found useful to focus the policy on the following type of questions:

Should there be any overall balance between local, national and international charities?

Does the company give priority to particular locations, for example where it has sites?

Are there themes towards which the company should give priority such as education, economic development, social welfare, research, conservation or culture?

How does the company strike a balance between the well-known popular causes and the less popular, smaller scale and grass roots initiatives which may require help even more urgently?

Should the company give any preference to those charities which are familiar to employees and their families or those in which employees are active in some way?

The amounts which companies give to charities will vary, as will the duration of support and whether complementary "in-kind" help is also offered. Companies vary in their approach to obtaining acknowledgement for contributions and in asking for progress reports. But it is as well to be clear about what is expected in dealings with a charity to avoid disappointment or frustration. This is particularly so when carrying out "sponsorships" where there is an intended benefit for the company as well as for the charity. In these situations it is often wise to have a contract.

MAKING CHARITABLE DONATIONS EFFICIENT

Managing charitable donations responsibly means ensuring they achieve optimum effect. Companies will need to:

Make sure they use tax efficient methods of giving through the use of covenants or the new single gift concession and where it is relevant, that employees can make use of the £100 payroll concession to obtain tax benefits also.

Make sure that the recipient charity is well managed and does not have or incur unnecessary administrative expenditure.

Make sure that the size of the donation is adequate for the purpose — many experienced companies find it preferable to give fewer but larger donations rather than spread contributions too thinly.

However it is done, a company must manage its donations efficiently

This means that there must be "management" capacity available to administer the donations.

This may take the form of an Appeals Committee and/or Staff Advisory Committee or in some cases an Appeals Unit with permanent staff. Not the least of Management's tasks will be the sifting of applications with a facility for both prompt acknowledgement and careful consideration. There are a number of outside organisations to whom the company can turn for advice.

Some companies believe that contributions and involvement are most efficient when they act in partnership with other companies, thus spreading the load not only of the amounts given but also of management time spent in deciding on applications and making and monitoring grants.

There are many examples of funding partnerships involving several companies in the job creation, social welfare and other fields.

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CREATING A CLIMATE FOR GIVING

Companies can do a great deal to create a climate for charitable giving

Other than their own direct charitable donations, companies can help create a climate which promotes and supports giving of resources and time to charities.

Companies can encourage others to join in either by example or direct approaches.

Companies should recognise that their employees, either privately or with working colleagues, often make considerable contributions to charities and community life. Employers may wish to help employees with their giving by holding discussions to determine the need for support, by offering deductions from the payroll and by helping with workplace communication.

Employers have found that employees who spend time in the community, whether during a secondment or by spending some of their own time in leadership roles, develop new skills and understanding which benefit the company.

COMMUNICATING COMPANY CHARITABLE SUPPORT

A communications strategy is an important aspect of a charitable support policy

An important aspect of good management of charitable support is good communications. Companies who make contributions to the community often choose to communicate this widely in order to derive full benefit from it. Companies are required to make a statutory declaration of total charitable contributions, but many companies go a stage further, often recognising the responsibility they share for projecting a positive image for British Industry. There is no best approach, but the following means can be used:

Inclusion of a section in the annual company report.

Reports to employees in the company magazine or news-sheets.

Publication of leaflets or statements on the contribution of the company to the community.

How the company can help to promote these guidelines?

A company can best help spread these guidelines by making reference to them in the Annual Report.

In this way the guidelines will become part of the procedure by which companies communicate to all concerned their good citizenship.

OBTAINING ADVICE

A number of organisations can provide advice to companies on their community involvement and charity support.

Companies can turn to several reliable sources for advice

ACTION RESOURCE CENTRE can advise on staff secondment and involvement, particularly in the voluntary sector.
Address: CAP House, 9-12 Long Lane,
London EC1A 9HD
Tel: 01-726-8987
Contact: Ms. Margaret Hyde

ASSOCIATION FOR BUSINESS SPONSORSHIP OF THE ARTS can advise on all aspects of arts sponsorship arrangements.
Address: 2 Chester Street, London SW1X 7BB
Tel: 01-235-9781
Contact: Mr. Colin Tweedy

BUSINESS IN THE COMMUNITY can advise on community involvement and corporate responsibility policies, particularly in the area of economic regeneration.
Address: 227A City Road, London EC1V 1LX
Tel: 01-253-3716
Contact: Mr. Robert Davis

CHARITIES AID FOUNDATION can advise on how charitable contributions can be most tax-efficient, using covenants, single gifts and employee deductions from the payroll.
Address: 48 Pembury Road, Tonbridge,
Kent TN9 2JD
Tel: 0732 356323
Contact: Mr. Ian Ford

NATIONAL COUNCIL FOR VOLUNTARY ORGANISATIONS can advise on national and local voluntary organisations and how to make contact.
Address: 26 Bedford Square, London WC1B 3HU
Tel: 01-636-4066
Contact: Mr. Derek Lowman

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PATTERNS AND ATTITUDES TO CHARITABLE GIVING 1985/86

An Extract from "The Charity a Household Survey".

Chapter 2 : Summary of Main Findings

(The full report is available from The Charities Aid Foundation.)

Contributions to Charity

Nine in every ten households give money to charity, and an average of £70.44 per household is given annually. This sum includes the purchase of raffle tickets, expenditure at jumble sales and bazaars, and money gifted to charities through covenants as well as the straightforward donations put into collecting tins and envelopes, church collections, or sent in response to an appeal. £70.44 per annum represents less than 1% (0.69%) of the average household income.

11% of households include someone who makes a regular payment to charity through a covenant, an average of £110 per year from the giving household. £255,822,710 is given annually through covenants and standing orders.

A total of £1,455,259,670 is given to charity in a year by British people, 17.6% through a covenant or standing order, the remaining 83% spontaneously.

An above-average proportion of AB households (professional/upper management occupations) give money to charity, and as would be expected, the amount contributed is higher, the average given annually amounting to £94.20 per giving household. Donations are larger than average from households where the head of household is 45-54 years old (average donation of £81.60) and in the South of the country (average of £77.64 per household).

Nearly three quarters of the population (aged 15 and over) give money to charity, an average of £33.28 per head annually (64p per week).

More women than men contribute to charity, and women tend to be more generous donors. As would be expected, an above-average proportion of people in the ABC1 social groups (professional/managerial occupations) contribute, and donors commit larger amounts - an average of £1.36 per week per donor. Giving levels are lowest amongst the young (16-24 years old) and elderly (65 or over).

Children between 10 and 16 years old contribute an average of 13 pence per week (around £6.75 per year) and younger children's donations average out at 8 pence a week.

Very few people (one in six) plan their charitable giving - the majority say their contributions are spontaneous. The managerial and clerical groups (ABC1s) are more likely than the 'blue-collar' groups (C2DEs) to plan their giving.

Channels of Contribution

The collecting tin was the most effective method of fund-raising from the public: 35% of the donations recorded from all members of the household were given in this way. The amounts contributed were relatively small, an average of around 50p per week from those reporting that they had responded to a house-to-house or street collection. Larger amounts (an average of around £9) were 'sent by post' but there were fewer donations (only 8% of donations). 22% of recorded donations were contributed through a collection envelope, 17% involved purchasing raffle tickets.

Seasonal Variations

The survey shows marked variations in giving at different times of year. The number of donors remains fairly constant, but the amount donated varies, from an average of £6.81 in the last month from the household in November 1985 to £6.18 in January and only £4.71 in July 1986. The higher levels in November and January may in part be accounted for by Live Aid and the Mexico Earthquake in mid-1985 and by Christmas in the month prior to interviewing in January 1986.

Covenants and Legacies

Just more than one household in every ten (11%) includes an individual who contributes to charity on a regular basis with a covenant or standing order. This is much more common amongst AB (professional/managerial occupation) respondents than amongst those with manual jobs (or where the head of the household had a manual job), as many as 25% of ABs claiming to give to charity through a covenant or standing order.

An average of £110 per household is contributed annually from households with covenants to charities.

Nearly half the survey's respondents (45%) have not heard of 'giving by covenant'. As many as 52% of C2s and 65% of DEs (those working in manual occupations) are not aware of covenants. Those who do know something about covenants associate them with commitment and long-term giving, but most are aware that they enable the charities to reclaim tax on the donation.

Only one person in every three has made a will, and even in the 65+ age group, more than third have not. Fewer than one in every ten (7%) who have made a will is leaving a legacy to charity. For most, their first loyalty is to their family, but many admit that it has not occurred to them to include a charity as a beneficiary.

Volunteering

A third of all British households support the voluntary sector by giving up time to help. 19% of all adults whose giving patterns were surveyed had recently undertaken some voluntary activity for charity - most of them women (66%) and in the ABC1 social groups (62%).

Around a quarter of 10-16 year olds and one in ten younger children give up time for charity.

Volunteering is most common amongst ABC1s, rural dwellers and 35-54 year olds.

The figures indicate that a total of 71,648,880 hours is given up to charity in the course of a year, the equivalent of 179,122 40-hour working weeks, an average of 1 hour 20 minutes per person per month.

Fewer men than women give up time to help charity but those who do give an average of 14 hours 25 minutes per month compared to 10 hours 30 minutes from the average female volunteer.

The most common voluntary activity is helping to organise a jumble sale or bazaar. Many men volunteers sell raffle tickets, collect things to be sold for charity, help in activities such as scouts or a day centre or participate in a sponsored event. Apart from organising jumble sales, women specialise in making things for charity - such as cakes for the fetes and bazaars - and more women than men volunteers hold collecting boxes in street or house-to-house collections. The majority of child volunteers contribute by taking part in a sponsored event.

Attitudes to Charity

Helping the physically disabled in Britain, and helping the mentally handicapped in Britain are the favourite causes in theory, although in practice the charities which had been most widely supported in recent months were involved in disaster relief, helping the physically disabled in Britain, and medical research.

The causes which have a more limited appeal are those concerned with conservation of the environment, the preservation of our heritage, social activities and religion.

The most common spur to obtain money for charity is a personal appeal - a donation is expected by the supplicant, and this makes it hard for people to refuse. Door-to-door and street collections are evidently very successful: 33%

of all adult donors say they gave in response to a door-to-door appeal, and 24% contributed to a street collection. Almost as many (19%) gave money in buying raffle tickets and 5% contributed through sponsorship. Of the 'cold' approaches, direct mail appears to produce more reaction than advertisements - 10% had been encouraged to give by an 'appeal through the door' compared with 1% who had reacted to a newspaper advertisement and 1% who had been inspired by a newspaper feature.

The emotional reward associated with giving is important to donors: 84% of all respondents agree that "It's rewarding to feel you've helped people in need in some way".

Many feel more inclined to give when there is some personal involvement with a charity, either because the family or friends benefit from the charitable organisation or because there has been a specific link: 76% agree that "I help concerns where my family or friends are involved - like the school, or scouts for my children" and 70% take the view that "Personal circumstances make me give, like I had a friend who died of cancer so I give to cancer charities".

The power of a personal approach is again emphasised when respondents are asked to agree or disagree with the statement "I can't refuse when someone comes to the door or approaches me in the street with a collecting tin": more than half (57%) admit that they feel unable to refuse.

Most people are encouraged to give money to charity when they can see what their money has bought, and the majority (63%) take the view that "Charity begins at home". The view that "The Government ought to help more, not rely on charities to raise needed money" was a common one, shared by more than three quarters of the sample.

The administrative costs incurred by charities are much exaggerated and widely criticised. Nearly two thirds of the sample think 'charities waste too much in adminstration costs'.

This view is based on a number of misconceptions: firstly, many people are not aware that charities are exempt from tax on their income from donations (and believe that the government thereby benefits), and secondly it is thought that around 45p to 50p in every £ is used in administration.

Most respondents, however, accept that "Charities are big business nowadays, run by businessmen" (55% agree with this, and only 25% disagree) and express confidence in their organisational ability, 73% agreeing that "Most charities are run very efficiently by caring people".

SECTION SIX:
PHILANTHROPIC ACTIVITIES OF THE WEALTHY

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VARIATIES OF PHILANTHROPIC LOGIC AMONG THE WEALTHY

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VARIETIES OF PHILANTHROPIC LOGIC AMONG THE WEALTHY

This paper presents the findings from the Study on Wealth and Philanthropy concerning the logics of philanthropy among the wealthy. By logics of philanthropic action we mean the various ways wealthy individuals insert themselves into the world through their philanthropic efforts. Although there are characteristics of philanthropic practice shared by virtually all wealthy individuals, we have been able to discern a limited number of specific logics of philanthropy pursued by the wealthy. As we will demonstrate, each of these logics is a distinct combination of strategic meanings and practices for ordering philanthropic involvements in time and space.

In portraying these logics our goal is to provide more than a descriptive laundry list of philanthropic types. Our aim is to derive the array of philanthropic logics from a series of theoretical considerations concerning the structural context of philanthropy and the distinctive nature of individual agency among the wealthy. On the basis of such considerations we can explain how these logics are themselves logically ordered within a common conceptual schema. Each logic of philanthropic agency represents the point at which the biography of an individual agent intersects with the history of society in the form of structural constraints and opportunities. By reference to these underlying dynamics of philanthropy and agency it thus becomes possible to move beyond the anecdotal reporting of our findings.

It should be emphasized that situating individual meanings and practices within a structural context no way diminishes the place of individual decision making. Social structure never mechanistically determines practices by individuals. Rather, it determines a range of social relations, constraints, and opportunities that limit the course of personal behavior and belief. Even if a captain steers a ship according to whim, the ship must go upon the water and must eventually seek a port. In the case of philanthropy no less than in any other sphere, social structure is the historical backdrop for each particular biography. But it is also the accumulated historical record of all biographical work in the world. In this way, focusing on the social structure of philanthropy actually highlights rather than obscures the place of the self-directed human agent. This is nowhere truer than in a structural analysis of the wealthy because of the especially forceful agency with which the wealthy participate in world.

This paper then presents some initial findings on the logics of philanthropy carried out by the wealthy within the general structural framework of philanthropy. The findings are based on interviews conducted in ten metropolitan areas with 140 individuals with net worth in excess of $1 million. In the first section we elaborate the general meaning of social structure, and delineate five specific elements of the social structure of philanthropy, including the nature of a "logic" of philanthropic practice. In the second section, we apply these theoretical considerations to explain how each philanthropic logic is a particular concrete expression of the intersection of philanthropic structure and agency.

THE SOCIAL STRUCTURE OF PHILANTHROPY

In the past a substantial amount of research has addressed the historical and structural aspects of giving by corporations and foundations. This research ties the patterns and purposes of philanthropic giving to the nation's industrial development, the evolution of the modern state, and transformations in the cultural morality and substantive objects of social reponsibility (Bremner, 1960). However, research on the structural aspects of individual giving has been restricted for the most part to how changes in giving patterns over time derive from revisions in the tax code and in regulations governing the formation of foundations and their disbursement of funds. Yet to be developed is a general theory of the structural aspects of individual giving situated within the historical evolution of the social structure of society.

In this section, we outline the general meaning of social structure and discuss five specific aspects of the structural foundations of individual philanthropy. These are (1) the organization of philanthropy as a production process; (2) the social positions of consumer and producer connected to this production process; (3) the structure of class relations within a philanthropic enterprise; (4) the way changes in the structural contours of philanthropy derive from specific historical developments in the socio-economic environment; and finally (5) the nature and meaning of a social logic as a way of understanding how individual philanthropy is organized in accord with structural properties.

The Meaning of Social Structure

Our analysis of the modes of philanthropy among the wealthy begins by situating individual philanthropy within its structural context. We argue that as a social structure, philanthropic practices intersect with the broader institutional workings of society and both reflect and produce changes in them.

A social structure is the compilation of interrelated social positions, cultural meanings, and behavioral conditions which, according to Giddens (1979: 69-70), serve as both the "medium and outcome" of individual or group practices. As such, a social structure is both "constraining and enabling." It is a field or terrain that provides both limits and barriers to action as well as resources and opportunities for changing the structure itself. It produces rules for social action and which in turn become the objects of production.

In this view, a logic of philanthropy is not simply the more or less well-motivated voluntary giving activity of individuals, foundations, or corporations but a particular instance of the intersection of moral agency and political economy. It is a patterned array of "constraining and enabling" positions located within the broader organizational framework of a society's leading cultural, economic, and political institutions. The particular array of positions that require our attention is determined by the structural workings of philanthropy as a production process within this broader setting.

Philanthropy as a Production Process

Elsewhere (Schervish, Herman, and Rhenisch, 1986), we derived a theoretical understanding of contemporary philanthropy as a set of product and labor market relations producing various critical and conservative agendas by matching a supply of resources to a demand of interests and needs. Specifically, we defined philanthropy as the non-legislated or voluntary accumulation and distribution of resources to achieve personal or institutional needs and interests. We insist on identifying the dual process of accumulation and distribution not only because the concentration of resources is an essential precondition for their application, but also to emphasize the intrinsic connections between the way resources are obtained and the way they are disbursed. Such resources extend beyond money or financial capital and include physical capital such as in the use of a business to pursue philanthropic ends; human capital such as one's time, skills, and ideas; and cultural capital such as one's status.

Although not directed toward the accumulation of financial profits, philanthropy as a production process does strive to maximize the accomplishment of specific goals by the application of accumulated resources. As such, philanthropic activity takes on the organizational form of an enterprise in a market economy. The form of such an enterprise, however, is not limited to that of the giant corporation. It is just as likely to be a small business or partnership. In fact, the institutional shape of philanthropy recapitulates the entire spectrum of organizational forms present in the market economy from self employment and sole proprietorships to large scale corporations as in the case of the major foundations.

As an aside, this definition of philanthropy as an organized production process provides another way to conceptualize the hybrid character of the "independent sector" as well as a way to distinguish between charity and philanthropy. First, the "mixed" character of philanthropy can be understood as resulting from philanthropy's unique institutional combination of (1) a set of labor and product market relations similar to that of a private firm in the business sector with (2) the systematic accumulation and distribution of resources on behalf of a public agenda similar to that of the government. Second, in these terms the narrow difference between charity and philanthropy is that charity revolves around the personal relations of voluntary giving while philanthropy revolves around the social relations of a production process.

Supporter and Producer of Philanthropy

The concept of social structure of philanthropy therefore refers to the set of institutionalized rules of production within which individuals or organizations voluntarily carry out their public wills to shape the historical development of society. Therefore, to examine the structural aspects of individual philanthropy requires that we first locate the set of positions or seats that establish the parameters within which individuals carry out their philanthropic activity. We focus on two such sets of positions directly related to the structural setting of philanthropy as a production process. The first set is that of supporter and producer and concerns whether an individual exerts an indirect or direct role in determining the existence and purpose of a philanthropic organization. The second set is the array of positions within a given philanthropic organization and concerns the type of relation an individual has to the actual production of philanthropic outcomes.

In common parlance we often speak of large and small contributors, endowed and unendowed philanthropies, and of founders and sustainers. Conceptualizing philanthropy as a productive enterprise provides a way of addressing these and other fundamental distinctions in a more parsimonious framework.

As a social organization dedicated to the production of outcomes, each philanthropy attempts to attract resources as the condition for applying them to fulfill a private (non-governmental) perception of social needs and interests. Most individuals respond to appeals for contributions in the way a consumer responds to the products or services of a business in the quite specific sense that their individual dedication of time or funds does not alone determine the existence or purpose of the philanthropy. This does not dismiss the long-term impact of some form of consumer sovereignty whereby a philanthropy that fails to perform in a way that appeals to the heartfelt interests of its contributors would either lose support or change its course of action. In this limited sense, therefore, all contributing consumers of philanthropy are in fact producers in that their accumulated individual support can ultimately shape the existence and direction of philanthropy. However, in contrast to those who contribute major gifts or actually establish philanthropies themselves, smaller contributors must be regarded as indirect producers.

It is a different story altogether, however, when a contributor provides a sizeable enough gift to actually shape the agenda of a philanthropy. In this instance, the contributor may be termed a direct producer in the sense that the contributor creates or sustains the very organizational life of the philanthropy. The extreme case of direct production is the personal founding of a philanthropic effort. This may be done formally in the form of a private foundation or in the form of contributing enough resources to establish a philanthropic outcome such as a clinic, endowed chair, or hospital wing. Less formally, even individuals of lesser means can directly produce philanthropic outcomes by "adopting" specific individuals (including family members), organizations, or causes that they assist in a sufficiently large manner as to "make a difference."

As we shall see, this structural distinction between consumers (or indirect producers) and producers of philanthropy becomes especially important for distinguishing types of philanthropic individuals among the wealthy as well as the different types of philanthropic involvement combined in an individual philanthropist. Yet to fully set the structural context of philanthropic activity, a second dimension of the positional structure of philanthropy must be addressed, namely the complex array of positions within a philanthropic organization including variations in types of producer positions. We term this array the class structure of philanthropy.

The Class Structure of Philanthropy

Within each philanthropic enterprise, just as in the business firm, there is a more or less elaborate array of positions constituting a hierarchy in the spheres of authority and production. Erik Olin Wright (1978, 1986) has elaborated a complex conceptual framework for understanding precisely this organizational arrangment of positions within an enterprise (see also Schervish and Herman, 1986). According to Wright, the axis on which real divisions between positions turns is effective control over productive assets in an enterprise. Such assets include physical capital, money capital, and human capital (both physical labor power and mental skills). Effective control entails the capacity to determine the application of these assets to the production of goods and services.

Positions within the enterprise are defined according to the extent to which they grant incumbents of the position the ability to determine the mobilization of these assets. Actual owernship of the assets, of course, provides for the greatest potential effective control. The simplest instance occurs in the case of a position of self-employment where no other workers are engaged. Here the notion of producer and owning director of philanthropy converge most fully in contrast to the situation where where a sponsor produces philanthropy but is not directly engaged in effectively controlling the application of assets to produce outcomes. Whether a mason, attorney, or hairdresser, the incumbent of the self-employment position controls the application of all three forms of capital.

As soon as other non-owners are engaged in production, the positional structure becomes more complex. It now becomes appropriate to refer to ownership as a small-employer position and to speak of a range of employee positions. In addition to personal self-direction in the application of one's human capital and control over financial and physical capital, the ownership position now provides for direction of the human capital of others holding employee positions. When the employee position is constituted, in the extreme case, by the absence of effective control over either organizational or skill assets, we can speak of a worker position.

Finally, in larger, more complex enterprises, two further evolutions of the positional structure occur. The first is the separation of legal ownership and control. The position of legal owner no longer resides actively within the enterprise, as in the case of public corporations. As in the example of philanthropic sponsorship just cited, the executive power derived from ownership gets delegated to the position of chief operating officer which now executes effective control over assets. The second development involves the further delegation of proprietary rights to a range of upper- and lower-level managerial positions which generally exercise relatively little control over financial capital but greater control over physical capital and over their own and others' human capital. The extent to which such positions exercise effective control over organizational assets determines their rank in the managerial hierarchy. The extent to which such a position allows an individual independent control over the disposition of their skills, determines their place in the professional hierarchy.

Together, the character of philanthropy as a production process and the array of consumer, production, and class positions related to that production process constitute the social structure of philanthropy. Each person engaged in accumulating, distributing, controlling, or working on the financial, physical, personal, or cultural assets of the philanthropic production process should be understood as situated within the social structure of philanthropy.

The Social Structure of Accumulation

Although the structural world of philanthropy sets the parameters of practice and meaning at any point in time, it is not static. There is a systematic relation between changes in the social structure of philanthropy and the historical development of the broader institutional relations within which it is set. Following Gordon, Edwards, and Reich (1984), we term this broader institutional setting "the social structure of accumulation." This is the specific political-economic environment composed of all the social practices and meanings, that affect the "possibilities for capital accumulation" (22) and determine the viability of a particular era of economic production.

In a market economy, the leading or organizing institution providing income and social welfare is the private economy of production and employment. Despite its importance, this economic structure of accumulation is not automatically capable of reproducing itself over time because of the dynamic pressures of economic competition and labor struggle. As a result the continued viability of the accumulation process requires developments in the social organization of production itself as well as new forms of support from the political, social, and cultural institutions. Each phase in the development of economic relations coincides with an interrelated development of the social structure of accumulation.

As one of the major institutions devoted both to mitigating the failures of the private economy and to forging a better working society, philanthropy plays a prominent role within the social structure of accumulation. Despite the importance of analyzing how philanthropy helps to reproduce society, we focus here on a much narrower aspect of the relation of philanthropy to the social structure of accumulation. This is the way philanthropy, as a production process, develops in a specific way congruent to the evolution of the organization of production in the private economy.

Briefly, this has meant that as the economy moved from being organized around small-scale competitive firms to being structured around giant oligopolies, so too did philanthropy. It is not by accident that the birth of the major foundation and community funds such as the United Way as an organizational form coincided with the evolution of the modern corporation. In terms of the array of positions described above, the growing private concentration of resources accompanying this shift contributed to the greater relative prominence of producer and owner positions in philanthropy. It also led to the creation of a full-blown class structure of managerial and professional positions within philanthropy.

Today a further evolution in the organization of production is underway, again reshaping the structure of philanthropy. Heightened international competition, the movement away from manufacturing to service industries, the restructuring of labor markets in the wake of three major recessions in the course of the past decade, the dramatic reduction in personal income taxes, and high levels of deficit spending have all contributed to unleashing what could be called the second entrepreneurial revolution. In the service sector and in certain manufacturing industries such as telecommunications, electronics, and computers, where barriers to entry are lower, individual entrepreneurs have thrived, making the independent small firm the cornerstone of growth in the American economy and creating a new cohort of wealthy individuals. In addition, there are new forces supporting the preservation of more directly controlled businesses. Even amidst uncertainty concerning the effect on businesses of the most recent revision in the tax code, it is becoming recognized that it provides substantial incentives for smaller public corporations to return ownership to fewer stock holders by restructuring as limited partnerships.

As an ethos and a practice, this second entrepreneurial revolution has been translated into a series of transformations in the social structure of philanthropy. Most obvious is the growth in the number of individuals with a substantial enough level of accumulated assets to enable them to move from being supporters to producers of philanthropy in the sense we discussed above. Second, the form of philanthropic organization produced in these efforts tends to move away from more formalized corporate models where the reigns of effective control are handed over to managers and professionals and toward more innovative, smaller-scale organizations where the funder remains directly involved. Finally, as wealthy women become more interested in directing their own finances and businesses and in holding decision-making positions within philanthropies, there has been a decline in the number of women willing to hold non-paid worker positions within philanthropy. This has been referred to by more than one respondent as the "end of volunteerism."

The Logic of Philanthropic Practice

We conceptualize modes of philanthropy as logics in order to emphasize that each type of philanthropic activity is an articulated unity of meaning and practice that makes sense of and orders the world as a progressive series of events. The notion of social logic, in contrast to the notions of modes or types, denotes the presence of an ordering principle over time and space. As such, we define a social logic as the set of strategic meanings and strategic practices according to which an agent organizes a series of discrete events into an ordered trajectory in time and space to accomplish a goal. As a form of consciousness and practice, a logic provides the mental and behavioral linkages between a sequence of events so as to construct a coherent teleological process.

For example, the various logics which will be discussed shortly constitute the manner in which wealthy individuals construct a course of action in relation to where they have been and where they wish to go. Each logic of philanthropy is a distinct way the wealthy conceive of and use their money for public purposes.

The Elements of A Social Logic

Each social logic is constituted by a structural starting point, a view of the way things work, a plan of action, and a goal to be achieved. These elements combine to form a unified or articulated approach to the world. In more formal terms, these four elements of social logic are (1) structural position, (2) strategic consciousness; (3) strategic practice; and (4) desired goal or teleological focus of attention.

Structural Position. An individual enters into or becomes attached to a social logic by virtue of being an incumbent of a social position. The position is the seat or structural starting point that links an individual to the particular set of institutional contraints and opportunities associated with a specific social logic. The position connects an agent to an ordered agenda, that is, to a given social structure as we have discussed this above. Within the world of the social logic, each position provides a vantage point that simultaneously limits and extends an agent's view of the world and provides a set of behavioral responsibilities and opportunities. In addition, every social logic orders a sequence of meanings and practices not just for one structural position but for an array of positions; and by doing so, it orders the relation of these positions to each other as well. As we will see, each logic of philanthropy provides an array of positions in relation to which individual philanthropists play out their unique contribution. Each position, then, is the structural locus from which individuals receive and carry out the strategic consciousness, strategic practice, and goals of a particular logic of philanthropy.

Strategic Consciousness. As we have stated, a social logic provides an ordering principle or trajectory for social action. As such, a social logic is not only a behavioral prescription but a cognitive map, a personally appropriated set of meanings or cultural understanding of the world. Each social logic, then, offers a strategic consciousness or meaning or way of understanding how the elements of the world are interconnected and get played out in a causal sequence. The cognitive map of the strategic meaning of each logic is not simply static. It is also strategic in the sense that it sets forth a trajectory of causal linkages explaining how outcomes come to pass and what specific social forces are most crucial for setting in motion the chain of events that make the world the way it is. Therefore, a strategic consciousness is simultaneously existential, normative, and utopian. It explains the way the world works, the way way it ought to be, and the way to transform it. As such, every social logic is a cultural logic explaining how and why things work and what to expect.

Like all logics, it provides an ordered array of meanings, an understanding of how one thing follows the next. But unlike the rationality of syllogistic logic that appeals to the deductive properties of the mind, cultural logic offers a rationality that makes sense of and orders the world in a way that appeals to the intuitive subjectivity of a particular individual or social group. For instance, the social logic of the American dream entails the strategic meaning that hard work will produce fortunate outcomes, that virtue is rewarded. It is rational in the sense that it explains the world, how it should work, what must be done to become successful, and what is wrong with those who are not successful. It is a strategic meaning, a logic in the fullest sense of the term.

But clearly the connections that move us from one proposition to the next are different from those of Aristotelian logic. In the case of a social logic of philanthropy, each logic's strategic meaning comprises the existential, normative, and utopian beliefs about the social needs that require attention, the way to address these problems by the application of voluntary contributions of time and money, the self-understandings of one's role in attending to these problems, and the pattern of social causation that make one's and other's involvement efficacious.

Strategic Practice. If strategic consciousness is the cognitive framework of a social logic, strategic practice is the behavioral pattern. A social logic is not just a way of thinking, it is a way of acting and actually carrying out the strategic meaning on behalf of a goal. Every social logic entails, then, a set of specific practices that are called for by the strategic meaning and the particular purpose to be accomplished. As a strategic pattern of action, this behavioral component must be understood as the designation of the types of practices to be carried out, what individuals are to carry out which practices, the order of these practices over time, the organizational setting for the practices, and the relations of production and authority directing these practices. Based on element of strategic meaning of a social logic, a strategic practice is the step-by-step execution of the behavioral and organizational action that puts into motion and gives social presence to a particular effort of world construction. As will be seen, the notion of strategic practice in a logic of philanthropy, is less concerned with specific amounts of giving or the causes supported. Rather, it concerns the kinds of activities carried out in the relation to philanthropy by the givers themeselves, the kinds of related philanthropic practices set in motion for others, and the specific organizational forms and involvements that are made part of the philanthropic production process by virtue of the other three elements of a philanthropic logic.

Teleology. The fourth element of a social logic is the teleological focus of attention, what is being accomplished. The teleology of a social logic is the composite array of outcomes focused on by the strategic meaning and accomplished by the strategic practice. The teleological focus cannot be reduced to some single stated purpose, motive, or end. It entails not only what one wants to do, but how one does it, and how one is shaped by or involved in the doing. The teleological focus is not an isolated goal but in fact a legacy; what is left behind or accomplished in its totality. Each philanthropic logic, depending on its specific teleological focus of attention, directs the philanthropist to address one interconnected configuration of ends rather than another. As we will demonstrate, a philanthropic logic that entails the complex teleology of both the financial support of a particular social service agency as well as the personal involvement with its clients differs dramatically from a philanthropic logic that entails the complex teleology whereby monetary giving involves the funder as a recepient or consumer of specific benefits from the supported institution, e.g., giving to a school in anticipation of one's children being accepted. We must caution immediately, that the different teleological focuses of the philanthropic logics are not the basis for arranging the logics in a hierarchy of moral quality. Rather it is to emphasize that every logic has as its teleogical focus, not simply the giving of certain amounts to certain causes, but rather a complex array of ends having to do with what happens to the philanthropist, other individuals, and the cause or people being supported.

SPECIFIC LOGICS OF PHILANTHROPIC PRACTICE

As we stated above, we call particular models of individual philanthropic practice "logics" becuase they are an articulated combination of elements which possess a certain coherency. Logics of philanthropy represent an ordering of motivations, resources, and goals; they make sense of and order individual agency in the social structure of philanthropy as a progressive series of events. In what follows, we set out nine social logics of philanthropy among the wealthy. This is not an exhaustive list, however, and we are in the process of elaborating six or seven further models. But the review of the nine logics presented should be sufficient to indicate both our theoretical argument and an introduction to some of our empirical findings.

As we turn to the exposition of the nine logics, we must note that for many individuals their philanthropic practice is multiplex, often evincing more than one logic of philanthropy. Nevertheless, it is most often the case that one particular logic tends to dominate the philanthropic practice of an individual. Again, we caution that no evaluation of the moral character of any of these logics should be read into our exposition of them.

Entrepreneurial

Just as the catalytic and innovative influence of entrepreneurship has become increasingly important in the social structure of accumulation, so too has an entrepreneurial logic of philanthropic practice in the social structure of philanthropy. The strategic consciousness associated with the entrepreneurial logic is shaped by the same phenomenological dispositions that characterize the entrepreneur in the business sector. Indeed, it is often the case that the individuals who most strongly and clearly manifest the entrepreneurial logic are also entrepreneurs in the business sector. While it is not necessary to be a business entrepreneur in order to be a a philanthropic entrepreneur, what is necessary is a strategic consciousness that emphasizes the composite teleology of creativity and innovation in the organization and in the service provided.

The philanthropic entrepreneur scans the terrain looking for particular areas of social need which are inadequately addressed by extant philanthropic practices and products. The philanthropic entrepreneur takes great pride in developing new ideas for philanthropic practice and initiating projects in undeveloped or underdeveloped philanthropic terrain. One person described the entrepreneurial logic as being that of a "social inventor," of one who "gets a big kick out of creating something or making something possible, making something happen that wouldn't have happened."

In order to make things happen, the strategic practice of entrepreneurial philanthropy is for the philanthropist to take up the position of philanthropic producer and owner by investing their resources in generally small-scale organizations that are expressly designed to carry out their ideas and create innovative new solutions to social problems. This complex teleology emphasizes the creation of small-scale projects because they facilitate the active and creative engagement of the philanthropist and because in small organizations the contributions of a single individual can be directed effectively and efficiently to exert the most impact.

Thus, the strategic practice of the entrepreneurial logic involves an active, hands-on engagement of the individual in the production process. While the extent to which an individual is committed on a daily basis to a particular project varies, the entrepreneurial philanthropist will always exercise effective control over determining the major purposes to which the productive assets of the organization are applied. Nonetheless, several individuals have argued that the success of philanthropic innovation requires almost a full-time involvement on the part of the entrepreneur. As one person, who had initiated a number of innovative projects said, "one of my tenets is that nothing ever changes without a focal point of full-time energy."

Programmatic

In programatic philanthropy, the pursuit of a composite teleology is made explicit, involving a conscious effort on the part of the individual to choose and unite strategically a number of philanthropic activities in order to achieve a coherent program of philanthropic outcomes. The key element of this logic is the strategic consciousness that explictly links together a variety of philanthropic practices to achieve a single social purpose. In this logic, a social agenda of philanthropy is most formalized. Each particular element of the philanthropist's array or range of practices is invested with a sense of tactical importance and carefully chosen so as to maximize the accomplishment of a unified social agenda. Such agendas generally are broad in scope, and phrased in social, political, or religious terms.

Since programmatic philanthropists are involved in a number of different philanthropic activities, the nature of their capital contribution, the positions that they occupy, as well as the specific nature of their practices, will vary according to the particular project or organization. In relation to some activities they may only be monetary supporters while in relation to others they may contribute their skills and status as well as money. The key is that the programmatic philanthropist is engaged in an array of practices with different degrees and types of involvement, all or most of which are oriented around a particular desired outcome.

A telling example of the programmatic logic is provided by one respondent whose explicit social agenda was oriented around exposing and counteracting the links between private and corporate wealth and the governmental decision-making process. As he put it, he is "maniacal about money and politics." This person has made a full-time philanthropic career out of strategically pursuing his program through an array of philanthropic practices including establishing and running a public interest organization, creating a fund for investigative journalism, and making executive decisions in his family's foundation. Thus, this logic of philanthropy is characterized not only by its strategic coherency but also by the systematic unity imposed by the philanthropist onto a wide range of specific philanthropic practices.

Productive

The logic of productive philanthropy is characterized by a strategic consciousness in which the distinction between one's business activity and philanthropy is erased. For the productive philanthropist, the business organization is itself a philanthropic practice. The strategic consciousness of this logic equates one's daily business practices with one's philanthropy. The definition of productive philanthropy depends precisely upon this specific vision of the business enterprise as philanthropic.

Three examples will suffice to demonstrate the range of different ways in which productive philanthropy can operate. One individual argued that his business, and any other business for that matter, was philanthropic simply because it was a business. As an owner of a successful company, he was philanthropic because he was providing jobs and income for a number of people as well as fulfilling a demand for specific goods in the marketplace, all of which enhanced the quality of social life in general. Even though there were no explicitly special or progressive characteristics about his business or its products, the owner still considered it to be philanthropic.

Yet in most cases there is something special about the product or strategic practice of the firm that makes it philanthropic in the eyes of the individual. For a second individual the enterprise which he manages and his work there are philanthropic because the product of the enterprise, religious books and literature, is spiritually and socially uplifting. As he says, "there is not a bifurcation that says this [philanthropic activity outside the firm] is a ministry and that this [my firm] isn't. Now it wouldn't be as easy for me to work myself as hard as I do for Exxon as it is for [my company], because in [my company] there is an exciting overlap of some of the missions of our company with my overall mission for my life in the world; and that, no doubt, is what makes this work appealing."

Finally, for a third individual, who is an entrepreneur in philanthropy as well as in business, the very environment of the organization and its practices is shaped so as to "influence my people's lives in a positive manner, both individually and collectively." This firm is organized to maximize employment security, employee participation in decision-making, and to enhance worker loyalty and commitment through profit-sharing. As this indivdidual put it, his company is a form of productive philanthropy because it is a "people-oriented company."

Consumption

In consumption philanthropy, the composite teleology entails the support of an organization from whose products and services one benefits. The strategic consciousness emphasizes the personal utility of a particular philanthropic product for the individual contributor. One's strategic practice is predominantly oriented around the production of a philanthropic good that one will consume either in the present or at some point in the future.

In contrast to entrepreneurial philanthropy, for instance, consumption philanthropy focuses its attention on existing organizations and institutions. We have not come across anyone who has initiated a project or created an organization in order to produce a philanthropic outcome mainly for personal consumption. Our findings indicate that consumption philanthropy tends to be located in the spheres of education and culture. Also, the logic of consumption philanthropy is most evidenced by those from inherited or "old money" backgrounds. A prime example of consumption philanthropy is the common practice of the inherited wealthy to contribute to the private grammar and high schools that they attended or will be attended by subsequent generations of family members.

Managerial

The strategic consciousness of the managerial logic places preeminent value on enhancing the rationality and efficiency of a particular philanthropic production process. From a mangerial position, generally as a board member, the philanthropist pursues a strategic practice oriented toward rationally enhancing the effectiveness and efficiency of the philanthropic enterprise. Accordingly, the focus of an individual's involvement is not the product itself, but the process by which it is produced. While it is possible to aid such rationalization by making monetary contributions (one individual funded the computerization of an organization's data base), the managerialist most often directly contributes managerial skills. As with entrepreneurial philanthropy, managerial philanthropy is one of the clearest instances where individuals recapitulate their business or professional position in their philanthropy.

A prime example of the managerial logic is provided by one individual who is a top executive for a large corporation. While also involved in what he called the corporate "missionary" work of his firm (what we call productive philanthropy), he saw the necessity of mobilizing philanthropic assets as if the task were a "business proposition." In all the philanthropic organizations in which he was involved (which ranged from summer camps for underprivileged youths to Third World housing projects), he consistently strove to enhance the good work of others by providing them with effective organization. As he says, "You have to spot and select the people that...want to do something for other people. They are usually pretty ineffective in what they are supposed to be doing but they can be damned effective if you channel them right, if you make them do what they are supposed to do." And the key to channeling in this logic is "competent organization" which he endeavours to provide.

Derivative

As its name implies, the logic of derivative philanthropy derives from the position the philanthropist holds outside of and independent from the world of philanthropy. The strategic meaning and practice of philanthropy emerges from the responsibilities of the individual's position as a member of a particular community or corporation. The defining characteristic of derivative philanthropy is that the teleological focus is the strategic practice of philanthropic involvement, not as an end in itself, but as a means of fulfilling the responsibilities of one's position in the larger social structure. The result is that there tends to be a certain tone of disinterestedness or unengagement with any specific philanthropic product or service. This is not to say that such goods or services are unimportant to the people who exemplify this logic but rather to emphasize that their philanthropic impulse originates from an imperative of obligation resting outside of philanthropy rather than from being attracted to the intrinsic value of a cause.

We have seen this logic manifested in two ways: first, by individuals who become philanthropically engaged because of expectations attached to their position in a firm or in the business world in general and; second, by individuals who enter into philanthropy on the basis of their position as women of the upper class.

In the case of business-derived philanthropy the impetus for philanthropic involvement can come from either a firm-wide ideology of community responsibility or from the realization that philanthropic involvement is a criterion for upward career mobility. In most cases both of these pressures are present. As one member of a prominent accounting firm stated, not only does his firm allocate about 5% of its earnings for philanthropy but also every partner is expected to be involved in some leadership role in the philanthropic community: "We really believe as a business philosophy that we have an obligation to give back to the community....[W]e also believe that if the partners and some of the others here do it...it's tremendous for their personal development...[and] states something about us in the community that's good for our business....I think what it states too...[is] that [our firm] and its partners are people who are anxious to be involved and if they are involved, they will make a difference."

Secondly, the derivational logic pf philanthropy is often found among what is probably a dying breed of women of inherited wealth whose adult vocation is volunteer work in traditional areas of philanthropy (e.g., social services, cultural institutions, the arts, and so forth). Such individuals make a career out of the charitable duties expected of women of their class. The work of philanthropy becomes a primary source of self-identity and personal efficacy since work in the business world was a route implicitly or explicitly denied them. Further, the daily practice of this kind of derivational philanthropy is one of the factors that contributes to the traditional division of labor in philanthropic organizations. As one women put it, the obligation to participate in philanthropy coupled to the institutional barriers to power, has led to women to form a "network of good little indians" who recruit other volunteers, organize fundraisers, and plan events for purposes decided by the "real" board as opposed to the "women's board."

In light of the changing economic and vocational positions of women in business and society, these women now recognize themselves as a dying species. Some have sanguinely forecast the the end of volunteerism as younger women of wealth move away from the past pressures of their traditional position and become philanthropically involved in more entrepreneurial and creative ways. For others, this causes resentment as they look back on their volunteer career not so much as a waste but as an activity which their position forced them to carry out but which continually remained socially undervalued. As one woman said summing up the end of a 50-year volunteer career, "I've done community work all my life, and if I would do it again, I wouldn't do it for free....I would get more respect. You appreciate what you pay for."

Therapeutic

In the therapeutic logic the composite teleology calls for the self-development and empowerment of the wealthy individual as an explicit part of the strategic practice of philanthropy. This logic is almost exclusively found among a younger generation of inherited wealthy who are actively engaged in progressive politics and alternative "social change" philanthropies. Such individuals often experience a disturbing conflict between their egalitarian politics and their privileged position in the class structure. The freedom and power that wealth affords, amidst a consciousness of poverty and oppression, becomes experienced as a detriment to self-esteem and integrity. Fortune becomes a burden, a negative social signifier that interferes with personal and work relationships, and a "sin" to be expurgated.

In therapeutic philanthropy the composite teleology involves a tripartite practice of empowerment of others, purgation of guilt, and psychological growth. First, the manifest outcome of alternative philanthropy is the empowerment of subordinate groups in society. In some cases this results in an organizational structure in which the wealthy donors exclude themselves from control over the allocation of their contributions. Second, such active engagement of the individual in the process of social empowerment enables them to ameliorate the guilt associated with their unearned privilege. Third, in an effort to also address the issues of self-esteem and personal conflict, participants in therapeutic philanthropy participate in the support groups and retreats provided for them by the organizations to which they contribute. The organization itself provides a congenial atmosphere for the individual to nurture positive self-development in the company of peers. When not leading to a self-imposed exclusion from decision making power, as noted above, the egalitarian ethic and nurturing atmosphere undergirding the strategic consiousness of therapeutic philanthropy leads to a cooperative or democratic structure in the organizations supported by therapeutic philanthropists.

Noblesse Oblige

Although the term of noblesse oblige often refers to the codnscending attitude held by the wealthy in their charity toward the less fortunate, we use the term in a much less judgmental and pervasive sense to characterize only one distinctive logic of giving. As a social logic the key aspect of noblesse oblige philanthropy is not a configuration of attitudes about the relation of rich and poor, but a strategic understanding about the interrelation of family and money. It is not by accident that we have encountered the logic of noblesse oblige mainly among inherited wealthy because its strategic meaning revolves around the understanding of money as a family resource reconstituting the lineage from generation to generation. "We made our wills back in high school when we turned 18," recounts one woman of inherited wealth, "And you begin to think in terms of what you have and how you're going to pass it down....The responsibility has always been told to my sister and I, by our parents, that we have the responsibility to take care of the family after us, that money can be spent...as long as you put aside for the next generation, their security, because you didn't earn this, it's a gift, and it's a trust."

Money, according to this and numerous other inherited respondents, is a trust not only in the obvious legal sense but in a deep social sense as well. From childhood, the inherited learn not only that money is passed on to them but that this money has a three-fold character. One part, "the interest," can accure to their parents and later to them as an allowance for living at the family standard. The second, more fundamental part, "the capital or principal," is an inviolable keepsake that creates the family over generations and is thus just as sacred. The third part is "charitable funds" composed of both interest and growth in the principal; in some cases such funds are also entered into a charitable trust or a foundation. In either case, the important point is that the amount for philanthropy tends to be carefully limited or formally demarcated. Indeed, the sum may be considered residual in that the primary purpose of money is the extention of the family over time.

But even if the sum is residual, engaging in acts of philanthropy is not. Here we part company with those who use the concept of noblesse oblige in its more derogatory connotation. As we have just seen, along with learning the meaning of money as a family trust, the inherited understand their money as unearned, a fortune of birth, and therefore a responsibility or social trust as well. The composite teleology that shapes their philanthropy is that their responsibility to assist the needy and to support civic works is an extension of their guardianship of money in the family. It is not the absolute amount of time or money devoted to philanthropy that characterizes their consciousness but the somewhat contingent and limited commitment. "I don't feel at this point, that I have a right to give away what capital and income I now have to outside charities because, if I were to die, my family would need that money to live on....I would not want to have given mine away prematurely and then have them have nothing." Perhaps what has been seen as a condescending attitude may in fact be this circumscribed third priority accorded philanthropy.

The implications of this teleology and consciousness for the strategic practice of philanthropy are direct. Just as money is dispassionately set in motion to preserve the family, it is dispassionately set in motion for social causes. As we have seen, not all inherited family members subscribe to the logic of noblesse oblige. Nevertheless, the tendency of the select group pursuing this logic, is to engage in regularized contributions to certain favorite charities as part of sense of community citizenship, to regard the causes themselves in non-ideological ways, and to limit their personal involvement to fundraising.

In sum, within the composite teleology of this logic, the responsibility to extend the family in the world and across the generations enjoys priority over the production of particular extra-familial outcomes. In this way, the key structural position setting the agenda of constraints and opportunities is within the family rather than in one's business or philanthropy. Although within the logic of noblesse oblige we may find individuals either supporting or producing philanthropic activities, the wealthy agent remains self-defined as a guardian of the family trust.

Catalytic

The logic of catalytic philanthropy revolves around efforts to mobilize the affective engagement of third parties on behalf of a cause rather than simply around the contribution of one's own time or money in service of the cause. Since efforts to mobilize the involvement of others is a common element of many forms of philanthropy, the distinguishing characteristic of the catalytic logic cannot be mobilization per se. It is, instead, the way the composite teleology of this logic combines three specific elements of this mobilization. These are (1) the rallying of a non-wealthy constituency, (2) the attempt to imbue this constituency with the same affective motivation held by the catalytic philanthropist, and (3) the generation of a strategic practice directed toward the creation of popular support to accomplish the desired end.

First, the teleological focus of mobilization is not just other wealthy philanthropists but a broader popular base as well. For instance, brokering philanthropy (not treated in this version of the paper) is defined by the attempt to mobilize the contributions of other philanthropists. In the respect that brokering philanthropy also strives to elicit the active participation of others, it is similar to catalytic philanthropy. The two forms differ, however, in that brokering philanthropy engages in the horizontal mobilization of other wealthy individuals while catalytic philanthropy adds the vertical mobilization of the non-wealthy.

Second, the vertical mobilization is characterized by a certain affective or ideological quality. This clearly distinguishes the mobilization associated with catalytic efforts both from simple fundraising activities such as those carried out by the United Way as well as from many forms of popular social mobilization. As we said, instead of dedicating time or money directly to the organization or people working on a particular cause, the catalytic philanthropist dedicates time or money to get others to contribute. However, the strategic consciousness that sets this network of contribution in motion centers on the belief that the contributors being rallied must be made dedicated to the ideological perspective of the cause. Thus what in the end distinguishes catalytic philanthropy is the distinctive affective quality of the type of mobilization taken up by the catalytic philanthropist. The philanthropist seeks to rally others's participation by communicating to the third parties being rallied the same special urgency or enthusiasm that imbues the philanthropist. Philanthropy is a political or ethical vocation aimed at eliciting an equally ethical engagement of a broad consituency.

Third, the strategic practice of catalytic philanthropy revolves around setting in motion a trajectory of action in the form of a social movement. For instance, forestalling military intervention in Central America will be achieved not by direct access by the philanthropist to foreign policy decision makers but by a broad mobilization of a constituency who will then pressure the targeted official through public opinion, voting, and other forms of social mobilization.

Hence it is not any one topic or substantive cause that characterizes the catalytic logic. It is the teleology, strategic consciousness, and stategic practice of affective vertical mobilization in the service of a social cause. In the catalytic logic, the position of philanthropist does not mainly require contributing one's money to an organization to achieve the desired mobilization. The most important asset available to the catalytic philanthropist is something directly related to the philanthropist's structural position. The catalytic philanthropist, to be effective, must hold a position not primarily in a family, corporation, or within a philanthropic organization, but in society itself. Because the catalytic philanthropist is personally engaged in the direct appeal to the mobilized constituency, it is the public status of the philanthropist that is the major resource for obtaining a public forum and for rallying the public to the goal. Consequently, we find that catalytic philanthropy is populated largely by public figures including entertainment stars, sports figures, and other media celebrities.

CONCLUSION

Theoretically, we have argued that philanthropic practices among the wealthy should be conceived as internally coherent social logics of production rather than as merely descriptively different types. As a social logic, each model of philanthropy is a unified arrangement of a specific set of positions within the organizational hierarchy; a strategic consciousness setting out an existential, normative, and utopian understanding of the way the world works; a strategic practice setting in motion a causal trajectory executing the strategic understanding of reality; and a composite teleology comprising a unified array of outcomes whereby what comes about for the philanthropist, the cause supported, and society in general are inextricably linked.

As summarized in the foregoing review of nine models of philanthropy, our empirical findings indicate that philanthropy among the wealthy is constituted by a finite number of well-demarcated internally-coherent social logics. There is neither a myriad number of practices nor one single form with only accidental differences.

Although the conventional impression that the wealthy constitute a group of "major donors" whose contributions of time and money disproportionately influence the existence and direction of philanthropic organizations is substantially correct, our research indicates that there is a striking diversity of specific patterns by which the wealthy exercise this function. Each logic represents, as we have demonstrated, a different structure of meaning and practice by which the wealthy carry out their general role as producers and not just supporters of philanthropy.

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THE VALUES OF THE WEALTHY: PHILANTHROPIC ATTITUDES AS A REFLECTION OF POLITICAL PHILOSOPHY IN AMERICAN CULTURE

by
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Prepared for
The Values of Individual Philanthropists Panel
March 20, 1987

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THE VALUES OF THE WEALTHY: PHILANTHROPIC ATTITUDES AS A REFLECTION OF POLITICAL PHILOSOPHY IN AMERICAN CULTURE

INTRODUCTION

The findings of the Foundation Formation, Growth and Termination Project provide a window on the values and worldviews of wealthy individuals in American Society. A series of more than 100 interviews with wealthy individuals and responses to 435 surveys mailed to a sample of philanthropic private foundations probed the reasons people form private foundations and more generally, their motives for giving money to charitable causes.[1]

Philanthropic motivations are varied and complex, reflecting the range of cultural and philosophical underpinnings of this country. Donors and their surrogates[2] indicated that giving private wealth for public purposes was based on values as diverse as religious heritage, personal philosophy, social responsibility, political beliefs, peer pressure, and egoism.

This research is unique because the attitudes and motives of wealthy individuals are not easy to study. It is difficult to obtain interviews or responses to surveys. As a result, motives are often assumed from the behavior of the most visible members of that group, or attributed on the basis of the belief that wealth seeks power. Yet, it is important to begin to understand the nature and depth of the commitment of the wealthy to the institutions that they fund, and their impact on the operation of the nonprofit sector. Further, philanthropic motives help to illuminate the ways in which the rich define their roles in society, and the philosophical bases of their commitments.

There is no one philosophical outlook that explains why the wealthy give to philanthropy. This paper contends that virtually every major philosophical current is reflected in the motives of donors. The historical trends described by Kathleen McCarthy in Noblesse Oblige and current trends among the middle classes found in Bellah's recent book, Habits of the Heart are reflected in the motives expressed by the wealthy donors that we studied.[3,4]

There is, however, a dominant theme. Wealthy donors believe in the efficacy of individual efforts to address the problems of American society. They believe in and support democratic institutions and capitalism, the source of their wealth. At the same time, they distrust government and fear that big government could lead to the loss of liberty and to socialism. The unresolved clash of Jeffersonian and Madisonian concepts of the state that run through American history are visible in the conflicting values of the wealthy.

This paper presents a brief description of research in progress. In it, I review the motives of wealthy donors reported in the Foundation Project and begin to outline the roots of these motives and attitudes in the history of American culture and political thought.

SURVEY

In the survey portion of the research, twenty motivations for forming a foundation were listed on a five point scale that ranged from no influence to strong influence.[5] Intensity scores and factor analysis were used to evaluate the responses. The donor's personal philosophy was the motivation that ranked highest in intensity. It was followed by the value of a foundation as a means of systematic giving, a concern for the welfare of others, social responsibility, the flexibility of the foundation vehicle, and tax incentives (See Table I).

Factor analysis was used to identify clusters of related variables. The first factor that was found reflects altruistic sentiments (See Table II). It includes: a concern for the welfare of others, religious heritage, donor's belief in social responsibility, a family tradition of charitable activities, and the donor's personal philosophy. These are the classic values that are partly grounded in the American religious heritage that dates from the Puritans through the religious revival movements of the 1800s to mainstream 20th century religions and the current fundamentalist movements. They are also part of the long tradition of civic stewardship that began with the early leaders of the republic.

Beliefs were the focus of the second factor. It includes the donor's concern with particular activities or issues, political beliefs, personal philosophy, and the desire of the donor to repay society for what he or she achieved. This factor reflects the ideological and issue oriented nature of much giving. Donors provide money to advance a specific idea or to address a particular issue of concern to them.

Factor three includes instrumental motives that concern the structure of the private foundation. It is important to the donors that a foundation is a flexible vehicle, that it provides tax incentives, and permits the donor to organize philanthropic giving in a systematic way. The interviews further clarified some of the reasons the wealthy choose to form foundations rather than giving in other ways. Some value the shield the foundation provides between the donor and the recipient. Others value the perspective of professional staff and knowledgeable board members. Many like the idea that the foundation keeps giving long after the original gift is made to the foundation.

Foundations also provide a means of memorializing the persons or families that create them. The fourth factor taps this motive for forming a foundation. It also includes the personal satisfaction that individuals enjoy as a result of forming a foundation.

The fifth factor links the lack of heirs and the commitment to a community or region as a motive for creating a foundation, while the sixth factor involves social pressure from the donor's peers.

INTERVIEWS

Interviews helped to explain the motivations identified in the survey and also expanded the scope of the inquiry since the interviews covered individuals who had not formed foundations.[6] Conversations with wealthy donors confirmed that tax savings were important in their philanthropic planning, but not the main reason that they gave to charity. Giving to charity, however, was clearly seen as a preferable alternative to giving money to government through taxes. By giving to charity, the donor controls where and how the money is spent. This is an important factor for both liberal and conservative donors. Individuals of both persuasions believe that they can spend their money more effectively than the government.

Wealthy interviewees clearly expressed the American passion for individualism and for capitalism. For some, philanthropy is a means of staving off big government and avoiding socialism. For others, philanthropy facilitates grassroots advocacy and problem solving. Democracy is equated with freedom to choose where to spend ones excess wealth and the nonprofit sector is viewed as the preferred means of delivering services without involving government. The distrust of government that Bellah and his coauthors reveal in the middle class, applies as well, and perhaps more strongly, to the upper classes.[7]

While many wealthy donors distrust big government, they seem to divorce those feelings from their commitment to the society and to the communities in which they live. Many are active in local and national political and charitable institutions, though some are quite private and stay out of the limelight. Despite their dislike of government, or perhaps because of it, many of these individuals have acted to institutionalize their charity by creating private foundations, and thus have accepted a certain level of "publicness" and government regulation in return for the privilege. They have determined that their private resources should be irrevocably dedicated to the public good, within the limits defined by the government in the tax code.

Stricter regulation of foundations that came about as a result of the Tax Reform Act of 1969, however, has had an impact on the formation of large foundations. Less favorable tax deductibility, and increased complexity of reporting to the IRS caused advisors to the wealthy to discourage their clients from forming foundations.[8] The result has been that since 1970, few large foundations have been created during the lifetime of the donor. They now tend to be created at the death of the donor, rather than during his or her lifetime. The impact of this trend will have to be monitored for its long-term impact on private philanthropy.

THE ROOTS OF PHILANTHROPIC MOTIVES

Religion

One thing the wealthy have in common is that they have more than enough money necessary to lead a comfortable life. The concept of sufficiency is relative, of course. For those with strong religious identifications, notably evangelical Christians and many Jews, there is a personal obligation for service, and for charity, that does not depend on wealth. Such individuals informed us that charity began at an early age, usually before the individual had made a fortune. Giving was regarded as a family activity, and as an obligation to the community or religious group.

The religious roots of charity are deeply ingrained in American life, from the Puritans to modern religious groups. As McCarthy notes, during the waves of religious revivalism prior to the Civil War, rich and poor alike were expected to give service and to provide for the less fortunate according to their means.[9] In the emerging city of Chicago, the ethic of community responsibility was preached from the pulpit and expected of the citizenry. Caring for those in need was a moral responsibility and a sign of virtue.

Religious motives for philanthropy clearly operate at different levels. While there are donors who tithe (and give more) for deeply felt religious convictions, there are others who cite a more generalized concern for the needy that is based on a religious heritage that has been suffused with a sense of civic obligation.

Civic Responsibility

Many respondents seem to reflect the values of what Bellah calls, republicanism, and civic participation.[10] These are the committed men and women who often come from backgrounds of community service and leadership whose wealth (often inherited) is dedicated toward improving the society around them. They believe in an educated citizenry, thus tend to fund institutions that promote equality through education. In their support of existing institutions and in their commitment to participation as an important part of the American democracy, they help to preserve dominant institutions both nationally and locally.

Another variant of civic responsibility is evident in individuals who built fortunes in certain cities. They often exhibit civic pride and boosterism that has led them to help to create institutions that elevate the standing of the city and provide culture and services to the citizens. Some of this civic responsibility devolves from longstanding family leadership in the city, and undoubtedly reveals paternalistic pride as well as an effort to make it an attractive place to settle or do business. This strand of civic responsibility finds an analogue in McCarthy's description of institution building in late 19th century Chicago.[11] Foundations were sometimes set up by such individuals to continue to benefit the city, long after the entrepreneur and family died. In the past, this pattern was particularly likely if the donor had no children to inherit the business or the fortune.

Social Responsibility

Those who view their wealth as an obligation, and who see themselves as stewards for the use of money for the betterment of society, often refer to the notion of social responsibility. Some self-made individuals spoke about their desire to repay society for the benefits that had come to them. They hoped to provide opportunities for others to make good. This emphasis on self-help for the able poor also has its roots in turn of the century American thought when Social Darwinism and Carnegie's Gospel of Wealth were dominant themes. In some cases there seems to be a goal of preserving capitalism by softening its impact on those at the bottom of the ladder. Though modern day philanthropists rarely state their philosophy in Darwinian terms, the concepts of stewardship, of individual responsibility, and of providing opportunities to the worthy, are sentiments that reflect those currents in American thought.

Egoism

Guilded Age plutocrats have their modern day counterparts. Some families have self-consciously set up large family charities to improve the family image, and give it an air of respectability. Ego gratification, peer pressure and personal satisfaction are among the motives cited. Others explain their largess in terms that reveal a paternalistic concern for those less able than themselves.

Progressives

Progressive sentiments are also represented among current rich Americans. Particularly among some of the younger heirs, there is an emphasis on promoting participation among the poor. Social justice and the more equitable distribution of wealth are among their goals. Some donors are clearly uncomfortable with their wealth in the midst of privation. They have banded together to form philanthropic funds that include representatives of the populations served as members of advisory committees. Unlike their parents, many of these persons have not formed traditional private foundations, but have created various types of public charities.

While none appear to justify giving to the dispossessed in order to prevent violent upheaval, as did some of the progressives of the earlier era, there is clearly a moral underpinning to their work that seeks to change the way the system works with regard to the poor. The underclasses are helped to learn how to advocate for themselves and how to use the system to benefit their communities. These donors acknowledge that the political and economic systems are currently not providing social justice for all, and they have committed portions of their wealth to help redress inequities. Few have adopted wealthy lifestyles and many work on their causes full time. Yet, true to the current era, the means chosen to affect change are incremental and seek to modify the imperfect workings of democratic capitalism.

Scientific Philanthropy

The tradition of the scientific problem solvers is strongly represented among wealthy Americans. Many believe in the scientific method and the professional/managerial solutions to societal problems that came into vogue early in the century. Basic research in the physical and social sciences are supported in efforts to expand knowledge and to solve society's problems. Such donors often have foundations staffed with professionals who help to direct the donor's gifts in ways that will have an impact.

Knowledge and progress are viewed as necessary for the improvement of the human condition. Funding research in universities and in other settings is viewed as a primary way of contributing to the betterment of society. Such giving removes donors from direct involvement in philanthropy.

CONCLUSION

This piece only begins to outline the roots of current philanthropic attitudes in historical philosophical and religious traditions. Much needs to be done to refine these ideas and to trace these currents in a systematic way. In particular one priority is to identify the melding of more recent cultural developments with older attitudes and values. Another priority is to explore the relationship of the themes of individualism and community that run through the motives of wealthy donors.

CHART I

MOTIVATIONS FOR ESTABLISHING A FOUNDATION
(All Respondents - Weighted Data)

Percentage of Respondents

	Degree of Influence	None		Some		Strong	Total	Mean	Rank
	Motivations	1	2	3	4	5			
A.	Personal Satisfaction	23%	14%	29%	14%	21%	100%	2.95	7
B.	Geographic Community	35	6	26	13	20	100	2.75	11
C.	Memorial to Self	63	14	14	3	7	100	1.78	17
D.	Social Responsibility	11	12	27	27	24	100	3.40	4
E.	Family Tradition	35	8	22	12	23	100	2.79	9
F.	Religious Heritage	34	13	16	8	28	100	2.84	8
G.	Welfare of Others	10	6	28	25	31	100	3.60	3
H.	Tax Incentives	21	12	24	22	21	100	3.12	6
I.	Social Pressures	86	6	6	2	1	100	1.25	18
J.	Political Beliefs	89	2	8	0	1	100	1.22	19
K.	Repay Society	42	13	21	13	11	100	2.39	13
L.	Personal Philosophy	9	6	20	23	42	100	3.83	1
M.	Help Particular Subgroups	42	16	14	15	13	100	2.42	12
N.	Particular Activities	35	9	21	15	20	100	2.76	10
O.	Create Family Institution	46	12	18	9	15	100	2.34	14
P.	Control Business Assets	93	4	2	1	1	100	1.14	20
Q.	Lack of Heirs	63	6	11	10	11	100	2.0	16
R.	Flexibility of Foundation	18	8	29	21	25	100	3.28	5
S.	Systematic Giving	13	3	23	27	34	100	3.65	2
T.	Experience for Children	57	9	19	6	10	100	2.03	15

CHART II

Rotated Factor Analysis: Cluster of Motivations

Factor #1 - Altruism

Concern for the Welfare of Others
Religious Heritage
Donor's Belief in Social Responsibility
Family Tradition of Charitable Activities
Donor's Personal Philosophy

Factor #2 = Beliefs

Donor's Concern With Particular Activities or Issues
Donor's Political Beliefs
Donors Personal Philosophy
Desire to Repay Society

Factor #3 - Instrumental

Flexibility of Foundation as Compared to Other Charitable Options
Tax Incentives
Establish a Vehicle For the Systematic Conduct of Philanthropic Giving

Factor #4 - Memorial

Desire to Create a Memorial to Self
Desire To Create A Family Institution
Personal Satisfaction of Creating a Foundation

Factor #5 - Community

Lack of Heirs
Commitment to a Specific Geographical Community

Factor #6 - Peer Pressure

Social Pressures from the Donor's Peers
Personal Satisfaction of Creating a Foundation

1. This study was conducted by a research team directed by Teresa Odendahl and jointly sponsored by the Council on Foundations and the Yale Program on Non-Profit Organizations. Funding was generously provided by the W.K. Kellogg Foundation, the Andrew W. Mellon Foundation and the Charles Stewart Mott Foundation.

2. The foundation survey responses were completed by donors, staff, trustees, relatives and others. In cases where donors did not complete the survey, the motives of the donor were reported by the respondent.

3. Kathleen D. McCarthy, *Nobless Oblige: Charity and Cultural Philanthropy in Chicago 1849-1929* (Chicago: The University of Chicago Press, 1982).

4. Bellah, et. al. *Habits of the Heart: Individualism and Commitment in American life* (New York: Harper & Row, 1985).

5. The Foundation Survey was designed to explore the basic facts of foundation creation and growth and to provide demographic and motivational information on donors. It was sent to a stratified random sample of 1,000 private grantmaking foundations. Results were weighted to represent the field. See Elizabeth Boris, "Creation and Growth: A survey of Private Foundations, America's Wealthy and the Future of Foundations" in Teresa Odendahl, *America's Wealthy and the Future of Foundations* (New York: The Foundation Center, forthcoming).

6. Interviews of 131 wealthy donors were conducted by the research team and were analyzed by Teresa Odendahl. These findings are presented in "Wealthy Donors and Their Charitable Attitudes" from Odendahl, *Op. Cit*.

7. Bellah, *Op. Cit*., p. 250.

8. Interviews of advisors to the wealthy were conducted as part of the Foundation Project. See Francie Ostrower, "The Role of Advisors to the Wealthy" in Odendahl, *Op. Cit*.

9. McCarthy, *Op. Cit*., p. 75.

10. Bellah, *Op. Cit*., pp.27-51.

11. McCarthy, *Op. Cit*., p. 75.

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SECTION SEVEN:
PHILANTHROPIC ACTIVITIES AMONG MINORITY GROUPS

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THE CHARITABLE GIVING AND VOLUNTARISM OF BLACK AMERICANS

by

Emmett D. Carson

Prepared for
Individuals and Philanthropy Panel
March 20, 1987

About the Author: Emmett D. Carson is the principal investigator of the Joint Center for Political Studies' project on Philanthropy in Black America. The views expressed in this paper represent those of the author and not the Joint Center for Political Studies.

I. Introduction

Organized charitable giving and voluntarism has existed in the black community for over two hundred years. Despite the importance of black charitable activity in the development of the first black banks and black insurance companies, very little is known about the contemporary charitable giving and volunteer behavior of black Americans. Such information would be extremely useful in determining the extent to which the black community allocates its collective resources to aid the poor through charitable activities. The information would also be useful in determining the characteristics of those blacks who are active in charitable activity and the mechanisms through which they engage in them.

In order to examine these and other questions, the Joint Center for Political Studies has initiated a 24-month study on "Philanthropy In Black America." The purpose of the study is to provide detailed information on the charitable giving and voluntarism of blacks and black charitable institutions. To date, the study has received support from the Edward W. Hazen Foundation, the Ford Foundation, and, the Charles Stewart Mott Foundation. The study is organized into four major parts. They are: (1) a history of the evolution of black charitable activity, (2) an analysis of the Bureau of Labor Statistics Consumer Expenditure data, (3) an analysis of the findings of a Joint Center/Gallup Poll survey, and (4) profiles of selected black charitable institutions in eight metropolitan cities. This paper will briefly review the early history of black charitable activity and then examine some preliminary findings from the Joint Center/Gallup Poll survey on the charitable giving behavior and voluntarism of blacks.

II. The Early Development of Black Philanthropic Activity

Far from having an obscure history, black philanthropic activity is almost wholly responsible for the development of the first black schools, black banks, and black insurance companies. In addition, the charitable giving and voluntarism of blacks has been the foundation of virtually every black protest movement in history. The earliest beginnings of black philanthropic activity can be traced to the mutual aid societies and fraternal organizations that were established in the 1700's. The purpose of these groups was to provide members and their families with services such as health and burial insurance and a social security plan for the widowers and children of deceased members. These were all services that were, at the time, largely unavailable to blacks from white service providers.

One of the earliest recorded mutual aid societies was the fraternal society known as African Lodge No. 459, founded by Prince Hall.[1] The lodge formally received its charter from the

Grand Lodge of England in 1787, although it had been in operation several years earlier. African Lodge No. 459 is widely recognized as the beginning of black Masonry in the U.S. The organization provided social interaction and protection against slavery due to delinquent debts.[2]

These organizations did not limit their charitable activities to members only. During the great plague that struck Philadelphia in 1793, the Free African Society, founded in 1787, provided the city with an extensive array of voluntary aid including nursing and burial services.[3] Other fraternal organizations and mutual aid societies that were well known during this period were the Grand United Order of Odd Fellows formed in secrecy in 1787 [4], the Independent Order of Good Samaritans founded in 1847, and the International Order of Twelve Knights and Daughters of Tabor, active antislavery societies both founded in 1855.[5] It is believed that the Odd Fellows was the largest secret organization during this period. It is reported to have had 89 lodges and 4,000 members in 1868; 1,000 lodges and 36,858 members by 1886; 2,047 lodges and 155,537 members by 1896; and, over 4,000 lodges and almost 300,000 members by 1904.

There were also a variety of other black organizations that were heavily involved in philanthropic activity. Boston's Sons of the African Society, founded in 1798, provided burial services for its members and gave assistance to widows and children.[6] Black Literary Societies such as Baltimore's Young Men's Mental Improvement Society for the Discussion of Moral and Philosophical Questions of All Kinds and the Philadelphia Library Company of Colored Persons were widespread providing books and establishing libraries.[7] The Brown Fellowship Society, founded in 1790, provided education for free black children in Charleston, South Carolina.[8]

There is strong evidence that the financial needs of these increasingly numerous organizations led to the development of the first black banks and black insurance companies. As Harris states:

> No fewer than twenty-eight banks were organized by Negroes from 1899-1905. Nearly all of these institutions were created to serve as depositories for Negro fraternal insurance orders. Thus, the rapid organization of independent Negro banking followed in the wake of the expansion of fraternal insurance and burial societies that took place in the first twenty years of the post Civil War period.[9]

The interdependence between the early black banks and the black churches was not without risks. For example, when Virginia's United Order of True Reformers bank failed in 1910 after being in operation for 22 years, the United Order of True Reformers, founded in 1881, dissolved the following year.[10]

One measure of the leadership and services that mutual aid societies and fraternal organizations provided blacks is what was done to eliminate them. By 1835, several states including Virginia, Maryland, and North Carolina had laws that banned fraternal organizations and mutual aid societies. Specifically, blacks were prohibited from having "lyceums, lodges, fire companies, or literary, dramatic, social, moral, or charitable societies."[11] Laws such as this contributed to why many of these organizations found it necessary to operate in secrecy. The unique development of black charitable activity may prove to be important in explaining the contemporary charitable behavior and volunteer activity of black Americans.

III. The Joint Center/Gallup Poll Survey

In order to obtain information on the contemporary giving and volunteer behavior of blacks, the Joint Center commissioned the Gallup Poll organization to conduct a survey using a questionnaire that was developed by the Joint Center. The Joint Center/Gallup Poll survey differs from other national surveys of the charitable activities of blacks in two important respects. First, most national studies of charitable activity have samples that are only 10 - 12 percent black, e.g., about 150 blacks. While these percentages accurately reflect the percentage of blacks in the overall population, the percentages are too small to generate reliable estimates when disaggregated to control for various socio-economic characteristics such as age, income, and education. This consideration becomes even more troubling if one believes that charitable activity may be related to these characteristics.

To address the problem of sample size, the Joint Center/Gallup Poll Survey conducted a two-stage survey. The first stage was to survey a national random sample of the population. This sample totaled 1,009 individuals of which 916 were white, 77 were black, and 16 were members of other races. In the second stage of the survey, 791 blacks were sampled. All respondents were surveyed in face-to-face interviews. In addition, 70 percent of the black respondents were interviewed by black interviewers. Face-to-face interviews are less likely to underrepresent low-income blacks than telephone interviews. In addition, some survey research has suggested that respondents are less likely to give biased responses in face-to-face interviews with interviewers of the same race.

The 868 blacks who are in the sample that is examined in the following sections consist of the 77 blacks who were sampled in the first survey and the 791 blacks who were sampled in the second survey. Such a large sample of blacks allows for extensive analysis of their charitable behavior controlling for various socio-demographic variables.

The second distinction between previous studies of charitable giving and the Joint Center/Gallup Poll survey is that most studies of charitable activity have focused much of their attention on the monetary donations of the respondents in the sample. The Joint Center/Gallup Poll Survey contains extensive questions on voluntarism as well as charitable donations of food, clothing, and shelter.

IV. Preliminary Findings of the JCPS/Gallup Poll Survey

Table 1 shows the distribution of income between whites and blacks in the sample. A total of 72 percent of blacks and 48.6 percent of whites in the sample have incomes under $20,000. Although there are substantially fewer blacks than whites with incomes over $40,000, to combine the income categories over $40,000 would severely distort any comparisons between blacks and whites with those incomes. As a result, conclusions drawn from comparisons between blacks and whites with incomes over $100,000 should be viewed with some reservation.

TABLE 1

PERCENTAGE DISTRIBUTION OF INCOME OF BLACKS AND WHITES

	Black	White
Under $20,000	72.1%	48.6%
$20,000 - $24,999	7.1	10.5
$25,000 - $29,999	5.6	9.7
$30,000 - $34,999	5.1	7.9
$35,000 - $39,999	2.4	5.0
$40,000 - $49,999	3.8	6.3
$50,000 - $99,999	3.1	9.7
Over $100,000	0.7	2.4
Total Observations	817	860

__Attitudes Toward Charity__. The responses of blacks and whites to the question, "Which group has the greatest responsibility for helping the poor?," are shown in Table 2. The findings indicate that although nearly one-fourth of both blacks and whites believe that the church should have the greatest responsibility for aiding the poor, 26.3 percent and 24.7 percent, respectively, there are notable differences. A total of 31.4 percent of blacks compared to 24.6 percent of whites believe that the Federal Government has the greatest responsibility for helping the poor. More whites than blacks, however, 12.7 percent compared to 3.8 percent, responded that the poor themselves had the greatest responsibility. These findings suggest that blacks and whites have markedly different views with regard to what group should bear primary responsibility for aiding the poor. These attitudinal differences are not surprising given the historical experiences of blacks within the United States.

TABLE 2

WHAT GROUP HAS THE GREATEST RESPONSIBILITY FOR HELPING THE POOR BY RACE

	BLACK	WHITE
CHURCHES	26.3%	24.7%
OTHER PRIVATE CHURCHES	3.9	6.0
FED. GOVERNMENT	31.4	24.6
STATE/LOCAL GOVERNMENT	13.3	14.7
RELATIVES OF POOR PEOPLE	3.4	7.6
POOR THEMSELVES	3.8	12.7
SOMEONE ELSE	.9	.4
DON'T KNOW	17.1	9.3
Number of Observations	868	916

Note: The responses in this table have a sampling error of 4 percentage points for each group.

Charitable Giving Behavior. The average contributions of blacks and whites to various types of charitable organizations in 1985 are shown in Table 3. Overall, the findings indicate that both blacks and whites of all income levels make their largest contributions to their church. In addition, as the income of both groups rise, their contributions to the church also increase. These findings are consistent with findings from previous research.

With regard to contributions to charities other than the church, the giving patterns of blacks parallel those of whites. There are, however, several differences in the average contributions of blacks and whites to various charities that are statistically significant. Of particular interest is that blacks with incomes under $20,000 and blacks with incomes between $30,000 and $34,999 give more to educational organizations than whites with similar incomes. Blacks under $20,000 also give statistically higher amounts to international aid organizations than whites at the same level of income. Whites with incomes under $20,000 give statistically higher amounts to the church, political organizations, and social welfare groups than blacks with the same income. In general, as income increases there are fewer statistically significant differences in the average contributions of blacks and whites.[12]

What is important to note about these findings is that they document both the intense and diverse involvement of black charitable giving. The lack of statistically significant differences between the average donations of blacks and whites indicate that blacks, contrary to widespread beliefs, are equally as active in their support to the full range of charitable organizations as whites. These findings underscore the multi-racial character of the financial support for charitable activity.

TABLE 3

AVERAGE CONTRIBUTIONS MADE TO CHARITABLE ORGANIZATIONS IN 1985 BY INCOME

(IN DOLLARS)

	UNDER $20,000		$20,000-$24,999		$25,000-$29,999		$30,000-$34,999		$35,000-$39,999		$40,000-$49,999		$50,000-$99,999		OVER $100,000	
	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE
CONTRIB. TO CHURCH	$67.52	230.51 *	274.07	301.61	340.83	291.39	514.36	319.16	178.89	706.50 *	346.26	406.20	921.86	1009.03	1266.67	936.76
CONTRIB. TO REL. ORGAN.	17.13	23.88	41.36	134.67	41.55	2.59	22.16	27.54	0.00	93.75	134.36	66.63	35.71	105.77	93.33	67.78
CONTRIB. TO INTERNL. AID ORGAN	7.37	2.57 *	11.92	5.34	14.05	15.38	6.89	6.27	4.12	11.38	48.23	4.33	22.14	35.77	25.50	46.67
CONTRIB. TO EDUC. ORGAN.	7.18	4.19 *	11.91	6.69	18.76	72.69	34.46	8.98 *	7.94	34.63	23.71	29.67	75.00	175.83	135.00	257.65
CONTRIB. TO HOSP., ETC.	15.08	20.95	3.85	18.18	4.10	2.28	5.46	13.75	0.00	2.25	1.29	16.85	7.14	54.17	3.33	59.44
CONTRIB. TO OTHER HEALTH ORGAN	8.61	18.48 *	6.80	15.97	17.31	15.70	25.41	21.00	6.71	35.75	35.65	40.00	31.24	56.35	61.67	132.35
CONTRIB. TO SOCIAL WELFARE GROUPS	12.32	20.84	23.47	63.15	39.86	27.87	33.06	46.76	15.29	69.30	61.45	92.33	93.76	132.31	111.67	147.22
CONTRIB. TO SOCIAL & FRAT ORGAN	2.13	4.01	10.09	2.45	7.75	6.01	4.19	5.48	5.00	36.40	20.06	14.57	20.24	34.42	8.83	41.33
CONTRIB. TO POLITICAL ORGAN.	1.39	7.44 *	7.55	16.19	10.74	6.95	5.57	17.06	1.86	10.99	9.65	18.37	16.05	60.94	33.33	65.28
ALL OTHER DONATIONS	5.02	16.63 *	5.33	34.67 *	17.38	23.59	26.62	26.35	10.88	34.90	14.42	43.00	49.52	103.01	53.33	124.12

Note: An asterisk (*) indicates that there is a statistically significant difference between the two averages at the p=.05 using a two-tailed t-test.

Volunteer Activity. Another issue that has received limited attention in research on the independent sector is the volunteer behavior of black Americans. Table 4 shows the average number of hours per week that blacks and whites volunteered their time in 1985 controlling for differences in income. The findings indicate that at every level of income blacks are more likely than whites to volunteer their time. Of particular interest is that both blacks who earn either less than $20,000 or more than $100,000 volunteer comparatively large amounts of time, 4.9 and 7.2 hours, respectively. While none of the differences between blacks and whites are statistically significant, they strongly indicate that blacks and whites at all income levels are equally involved in volunteer activity.

TABLE 4

AVERAGE VOLUNTEER HOURS WORKED PER WEEK BY BLACKS AND WHITES

	Black	White
Under $20,000	4.9	1.6
$20,000 - $24,999	2.5	2.1
$25,000 - $29,999	3.1	1.8
$30,000 - $34,999	4.5	1.4
$35,000 - $39,999	3.6	2.0
$40,000 - $49,999	3.2	1.1
$50,000 - $99,999	3.1	2.3
Over $100,000	7.2	2.0

Note: An asterisk (*) indicates that there is a statistically significant difference between the two averages at the p=.05 using a two-tailed t-test.

The percentage of blacks and whites who performed volunteer work for different types of charitable organizations controlled for differences in income is shown in Table 5. The findings indicate that both blacks and whites at all income levels disproportionately performed volunteer services on behalf of the church. In general, a greater percentage of blacks responded that they had provided volunteer services to the church than whites at every level of income. One notable exception to this is that of blacks and whites with incomes over $100,000, 52.4 percent of whites compared to 33.3 percent of blacks volunteered through their church. The table also indicates that with the exception of the $35,000 - $40,000 and over $100,000 categories, blacks appear to be slightly more likely than whites to volunteer for educational organizations.

In general, similar percentages of blacks and whites at each level of income responded that they had not engaged in any volunteer work. There are, however, two notable exceptions. A large percentage of blacks with incomes between $35,000-$39,999, 65 percent, compared to 42 percent of whites with the same income responded that they had not been involved in any volunteer activity. Of those with incomes over $100,000, 50 percent of blacks compared to 9.5 percent of whites reported that they had not been involved in any volunteer activity.

TABLE 5

PERCENTAGE OF BLACKS AND WHITES WHO VOLUNTEER TO WORK FOR VARIOUS CHARITABLE ORGANIZATIONS

	UNDER $20,000		$20,000-$24,999		$25,000-$29,999		$30,000-$34,999		$35,000-$39,999		$40,000-$49,999		$50,000-$99,999		OVER $100,000	
	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE	BLACK	WHITE
VOLUNTEER FOR CHURCH	34.8%	26.5%	41.4%	41.1%	41.3%	30.1%	33.3%	35.7%	15.0%	34.9%	45.2%	35.2%	40.0%	39.8%	33.3%	52.4%
VOLUNTEER FOR RELIGIOUS ORG.	5.5	4.5	6.9	16.7	6.5	3.6	9.5	1.5	10.0	7.0	9.7	5.6	0.0	4.8	0.0	0.0
VOLUNTEER FOR INTERN'L AID ORG.	1.4	1.4	1.7	3.3	0.0	3.6	2.4	0.0	0.0	2.3	9.7	1.9	16.0	2.4	0.0	0.0
VOLUNTEER FOR EDUCATIONAL ORG.	9.7	6.7	13.8	12.2	13.0	10.8	14.3	7.4	0.0	16.6	38.7	27.8	24.0	26.5	33.3	52.4
VOLUNTEER FOR HOSPITAL	4.2	5.5	5.2	3.3	2.2	3.6	7.1	7.4	0.0	9.3	12.9	11.1	4.0	7.2	0.0	23.8
VOLUNTEER FOR OTHER HEALTH ORG.	4.0	6.7	1.7	6.7	0.0	6.0	7.1	5.9	5.0	16.3	6.5	13.0	8.0	12.1	0.0	9.5
VOLUNTEER FOR SOCIAL WELFARE ORG.	4.1	5.7	5.2	9.4	2.2	6.4	4.8	4.4	5.0	9.3	16.1	14.8	12.0	10.8	0.0	14.3
VOLUNTEER FOR SOCIAL AND FRAT. ORG.	3.4	4.3	5.2	9.0	6.5	9.5	4.8	2.9	0.0	7.0	16.1	22.2	4.0	19.3	16.7	14.3
VOLUNTEER FOR POLITICAL ORG.	1.7	4.6	6.9	10.0	6.5	2.4	9.5	2.9	10.0	7.0	9.7	11.1	12.0	10.8	50.0	14.3
VOLUNTEER FOR OTHER ORG.	5.1	10.5	5.2	15.6	10.9	14.5	9.5	10.3	20.0	14.0	25.8	14.3	12.0	20.5	16.7	28.6
DID NOT VOLUNTEER	52.[illegible]	54.5	43.1	37.8	45.5	47.0	45.5	45.5	55.0	41.9	32.3	35.2	44.0	21.3	50.0	9.5

V. Conclusion

One of the principal findings from the data presented here is that blacks and whites have similar patterns of charitable giving when controlling for differences in income. This finding challenges the myth of blacks as only recipients of charity, but indicates that blacks give considerable financial support to a wide range of charitable organizations. This finding is even more surprising given the differences in black and white attitudes toward what group has the greatest responsibility for helping the poor. The data also indicate that blacks are actively engaged in voluntarism. Again, these findings challenge widely held views that blacks are less active in volunteer activity than whites.

It should be stressed that the findings presented here are preliminary. Subsequent research using the 1986 Joint Center/Gallup Poll Survey will continue to examine the charitable and volunteer behavior of blacks controlling for other socio-economic and demographic characteristics. In addition, the research will further examine the attitudes underlying charitable giving as well as responsiveness to various types of charitable appeals. This information coupled with the findings from the other components of this study should provide a comprehensive picture of philanthropy in black America.

ENDNOTES

1. August Meier, Negro Thought In America: 1880-1915 (Ann Arbor: The University of Michigan Press, 1966), p. 14.

2. King E. Davis, Fund Raising In The Black Community, (Metuchen, N.J.: Scarecrow Press, Inc., 1975), p.4.

3. Benjamin Quarles, The Negro In The Making of America (New York: Penguin Books, 1964), p. 98.

4. Quarles, p. 97.

5. Meier, Negro Thought in America, p. 15.

6. Quarles, p. 98.

7. Quarles, p. 98.

8. E. Franklin Frazier, The Negro Church in America, (Liverpool: University of Liverpool Press, 1963), p. 44.

9. Abram L. Harris, The Negro As Capitalist, (College Park, Md.: McGrath Publishing Co., 1968), pp. 46.

10. Meier, Negro Thought in America, p. 137.

11. Ebony, Ebony Pictorial History of Black America, (Nashville, Tenn.: The Southwestern Company, 1971), p. 183.

12. It should be noted that the statistically significant difference between the average contributions to the church of whites and blacks with incomes between $35,000 and $39,000 remains significant with the removal of a white respondent who reported a contribution of $6,000. The new average contribution of whites to the church for this income category is $570.76.

WORKING DRAFT

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GIVING TO JEWISH PHILANTHROPIC CAUSES:
A PRELIMINARY RECONNAISSANCE

by

Richard Silberstein, Paul Ritterband,
Jonathan Rabinowitz, Barry Kosmin

Prepared for "Philanthropic Activities Among Minority Groups" panel, 1987 Spring Research Forum, sponsored by INDEPENDENT SECTOR and United Way at the Vista International Hotel, March 19-20, 1987 in New York City.

North American Jewish Data Bank and The Center for Jewish Studies, Graduate School, City University of New York.

GIVING TO JEWISH PHILANTHROPIC CAUSES: A PRELIMINARY RECONNAISSANCE

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The literature on Jewish philanthropic behavior is very thin. We suspect that a reasonable social scientific bibiliography dealing with Jewish philanthropic behavior could be printed on one not terribly large page. As to our disciplinary field, sociology, there too we have have found little dealing with charitable giving, the organization of philanthropy and related issues. In previous Working Paper volumes of the Independent Sector, there has been little on Jewish philanthropy; little on the sociology of giving more generally. We are operating then in largely unknown territory, borrowing theoretical insights from cognate areas, with little in the way of a cognitive map to lead us. Be that as it may, we find our entry into this area of research a challenge worth meeting.

The study of Jewish philanthropy raises many issues. How does Jewish philanthropy differ or not differ from other philanthropic causes? How do Jewish philanthropic behavior and institutional structure compare with other voluntary communities? Within Jewish philanthropy, are there systematic differences among different Jewish communities defined geographically and relgio-culturally? Within geographic Jewish communities, what are the characteristics which predispose individuals and households to give to Jewish and other causes? Which causal model which will make sense theoretically and which will fit the empirical data?

Jewish philanthropic activity is carried on at the local congregational level, at the level of the larger Jewish community, i.e. the town, city or region, and at the national level. Some funds are raised for omnibus purposes, analogous to the United Way while others are highly targetted for specific organizations in the United States and abroad. In this paper, we shall focus on the omnibus fund raising drives conducted by the regionally organized federations of Jewish philanthropies/United Jewish Appeal. The names of these organizations vary from community to comunity making it difficult at times for the uninitiated to follow and compare their activities. They are all brought together however in the Council of Jewish Federations, which has been kind enough to give us access to some of their data.

Comparing philanthropic campaigns

Examining the varieties of American philanthropic activities, we have come up with an initial operating typology to place the local Jewish federation activities in context. Our typology has two dimensions, the nature of the givers and gifts on the one hand and the nature of the beneficiaries on the other. As a short hand, on each dimension we will divide the groups into elite and mass. There are theoretically, elite givers to elite constituencies, elite givers to mass consitutencies, mass givers to mass constituencies and mass givers to elite consitutuencies. We have found cases that fall into the first three cells of our typology with the fourth cell remaining empty for now. Elite givers to elite consitutuencies we believe is characteristic of fund raising drives in Ivy League universities, museums, opera houses and other institutions that cater to an upscale, well educated population. The number of givers will tend to be few, with most of the money coming from few people.

At the other extreme, we have the campaigns which seek mass support, where the individual gifts are not large and where the institutions supported by the campaigns supply services to a broad band of the population, i.e. the mass. The United Way represents this sort of campaign. A pure instance of the third type is one in which money is raised from a few and the services delivered are offered the many. The Jewish federation campaigns are a variant on this third type. Money is raised from a large fraction of the Jewish population but most of the funds raised come from relatively few people. During the past few years, we estimate that 1% of the gifts to the federation campaigns accounted for 40% of the total funds raised while 3% of the gifts accounted for somewhere between two thirds and three fourths of the money raised.

It would be useful for all of us to have the data from a wide variety of philanthropic bodies such that we could compare them with respect to the dimensions of the models we have suggested here. What accounts for the choice of alternative? What does the choice imply about the stability of the campaign and its dependence upon an oligarchic group? We will only be able to deal with these and other questions when the data are available. Within the Jewish community we have instances of other types reported as well. The Filer Commission noted that synagogue life is conducted along the lines of the mass supporting the mass. That is, all members of the local Jewish community are invited to participate in the liturgical, educational and cultural life of the synagogue and support of the operating budget is broad. There is relatively little difference in the size of the gift among the households affiliated with the congregation. Capital campaigns in synagogues have more of the character of federation elite supported, mass constituency campaigns.

Comparing Jewish communities

Within the Jewish community, observers have long noted the existence of "good" communities and "bad" communities. In the absence of good local data for a large enough number of Jewish communities on income and wealth distributions, communities can only be compared in terms of their rates of participation in the campaign. There is an obvious peculiarity in this measure of community quality in that campaign receipts as we noted a moment ago are so skewed. Yet, there is interest on both the practical and theoretical levels in the question of the extent to which the local Jewish federation campaign is able to elicit broad support within the Jewish community. Our operational measure of rate of participation is the number of gifts per 1,000 Jewish persons in the community. The measure does have some problems in that the giving unit tends to be the household and not the individual person. Jewish communities vary in average household size and households vary in the extent to which they give single or multiple gifts (i.e. to the general campaign, to the women's division, through industry groups, etc.). Examining the data, however, we have concluded that these problems, though real, do not create enough of a systematic error to preclude analysis.

We have attempted to account for variations in rates of participation among Jewish communities in terms of three sets of variables. These are

o- Jewish community size both absolute and relative,
o- change in absolute Jewish community size
o- region.

Community size is a measure of the visibility and accesibility of the households within the community. The larger the absolute size of the Jewish community, we hypothesized, the more anonymous the individual household would be and the less likely that it would be caught up in the communal network. The larger the relative size of the Jewish community, the less the sense of intra-group dependence and solidarity. Changes in communal size we took as reflecting in and out migration to a community. Other studies have shown that newcomers to a community take time to become fully part of the community. That is, they do not immediately affiliate with their local synagogues and other Jewish communal institutions. We might say that they do not have a local Jewish communal address. Without such an address, the federation campaign does not know of the newcomers' entrance into the community and thus can not solicit them for a gift and the newcomer may not know the address of the local Jewish communal organizations, including the campaign, precluding their giving a gift even if they were motivated to do so. We hypothesized, therefore, that communities which have experienced a great deal of growth over the past twenty years would show lower levels of participation in the campaign. Last, there is a folk imagery about regions of the country accompanied by stereotypes which may or may not have some basis in reality and consequences for charitable giving. The south is the bible belt, thus should show high rates of participation. The west is lotus land, the land of disaffiliation and laid back individualism, thus it should show low levels of participation.

In table 1, part a, we report the results of the regression analysis of rates of participation for 100 Jewish communites around the country as determined by Jewish communal size and change in the size of the local Jewish population between 1963 amd 1986. [2] The three independent variables show statistically significant effects. The larger the community, both absolute and relative, and the greater

Table 1
Community rates of giving to the federation campaign by size of community, change in size of community and region

Part a
The effects of absolute and relative community size and change in absolute community size

Variable	Regression Coefficient	Standard Error
Absolute size of the Jewish community in thousands, 1985	-.422	.157
Percent Jews in standard metropolitan area, 1985	-12.71	5.06
Percent change in Jewish Population 1963 - 1985	-.360	.078

Intercept 348.549

Coefficient of Determination (R^2) .39

Part B
The effect of Region

	zero order effects		controlled for change in Jewish population	
region	coefficient	standard error	coefficient	standard error
north-central	50.07	25.08	29.05	24.12
south	25.93	24.54	37.84	23.20
west	-78.28	32.77	-47.91	31.70

its growth, the lower the level of participation. Taking the effect of each of the variables net of the other, we find that for every additional 1,000 Jewish persons, the number of gifts per 1,000 Jewish persons goes down by .422; for every percentage point increase in Jewish population in the Standard Metropolitan Area the number of gifts goes down by 12.716 per thousand; for every percentage point increase in Jewish population between 1963 and 1986, the number of gifts per 1,000 Jewish persons goes down by .360. Thus, we would expect San Diego with a Jewish population of 35,00 persons, representing 1.7% of the SMA and a net growth over the last quarter of a century of 289% to report 207.7 gifts per 1,000 Jewish persons, a figure very close to their actually reported 209.9 gifts per thousand.

The last variable to be considered is region. In part b of table 1 we report the average rates of participation for major regions of the country. It is the case that the west shows a significantly lower level of of participation as compared with other regions of the country consistent with our third hypothesis. However, we suspect that region might be reflecting attributes other than those implied by our hypothesis. While we noted that regions have reputations based upon the imputed cultural characteristics, regions also vary in terms of their population structural characteristics. Over the last generation, the west has reported major growth while the northeast and north central, areas of major Jewish settlement, have experienced stasis or in some instances, actual decline. To test the independent effect of region, we have regressed our dependent variable on region and then on region and changes in Jewish population. What we find is that the initial regional effect declines to the point where it is no longer statistically significant. For our sample then, we conclude that the regional effect reflects changes in population structure rather than independent local culture.

In sum, using the community as the unit of analysis, we have two major findings. First, we find that the larger the Jewish community, the lower the level of participation in the campaign. Second, we find that the greater the recent growth in the community's size the lower the level of participation in the campaign. Both these findings reflect individual level characteristics, namely the extent to which the individual and the household can be reached by the campaign.

Comparing individuals

Our last set of considerations for this paper are those which reflect individual level variations in propensity to give to the local Jewish campaign. We have found it useful to parallel where possible the analysis reported by Hodgkinson and Weitzman (1985). Their study gives us the most recent national picture of the philanthropic behavior of all Americans, thus a context for the analysis of groups such as American Jews.

For purposes of our individual level analyses, we shall be presenting data from local Jewish community surveys which have been deposited in the North American Jewish Data Bank (NAJDB). The Data Bank has been established as a joint project of the Center for Jewish Studies of the Graduate School of the City University of New York and the Council of Jewish Federations. The surveys from which we shall be reporting were commissioned by the local Jewish Federations in each of the areas to be cited. These studies serve the local Jewish community as sources of information in planning for communal needs and for assesing the characteristics of the Jewish community. In the first part of this individual level analysis, we shall be reporting some two variable relationships between giving and individual household characteristics in six Jewish communities representing the large and medium size Jewish communities around the country.

A major theme running through Hodgkinson and Weitzman is the centrality of religion to the entire philanthropic enterprise and the power of religion as a motivating force. While they used religious service attendance as their primary indicator of religious involvment, we have found it useful to characterize the households in terms of their level of ritual observance rather than synagogue attendance. The reason for this is that in traditionally religious Jewish households, there are different religious norms for synagogue attendance by sex. Thus, it is more appropriate to use ritual observance as the indicator of behavioral piety, an indicator which correlates highly both with male and female service attendance, each measured separately.

In four of the six communities under study, the responding head of household was given a list of home religious rituals and asked whether these were observed or practised in the household. The lists commonly include maintaining a kosher home, Sabbath observance, attendance at a Passover Seder, observing the Feast of Hannukah, and so on. In the case of Pittsburgh and Richmond, kosher home was the single ritual item asked. For convenience sake, we added the positive responses to each of the ritual observance questions and then dichotomized the additive ritual observance scores from each of the cities and reported their impact on Jewish federation giving. We have also reported synagogue affiliation as another measure of religious involvement and have examined its effect on giving. Ritual score represents participation in traditional Jewish religious culture, a culture which prescribes giving charity. Synagogue affiliation makes a household visible and available to Jewish philanthropic campaigns.

The major finding, consistent across communities, is that giving to the federation campaigns is significantly related to ritual observance and to synagogue affiliation. (See table 2) We find that high observant home and synagogue affiliated households are more likely to report a federation gift than are the low observant and unaffiliated households.

As we noted earlier in our discussion, the federated Jewish communal campaigns are but one, albeit the largest and

Table 2
Giving to the Jewish Federation campaign by religious ritual observance and by synagogue affiliation in six communities

% giving

Community	ritual observance Low	ritual observance High	synagogue affiliation No	synagogue affiliation Yes
Los Angeles	[not available]		42	74
New York	58	83	41	68
Philadelphia	43	82	48	79
Boston	64	90	42	74
Richmond	59	69	34	75
Pittsburgh	53	55	40	67

most rationalized, of several modes of Jewish philanthropy available to the local Jewish community. Not all Jewish charitable causes are linked to the omnibus campaigns, thus these campaigns do not report all gifts nor do they report the philanthropic activities of all members of the Jewish community. Members of the orthodox community, particularly the most rigorous and sectarian elements in that community, are most likely to create parallel philanthropic bodies to support orthodox institutions. For the federation campaigns, the net result of this parallel orthodox structure is that the relationship between ritual observance and giving to the federation campaign is curvilinear. That is, the probability of giving increases with religious ritual observance up to a point and then declines at the upper end of observance. New York, with its large sectarian orthodox population shows this relationship most clearly. (See table 3)

Table 3
Giving to the New York Federation of Jewish Philanthropies by household religious ritual observance

% giving to Federation campaign

Number of Rituals observed

0	1	2	3	4	5	6	7	8	9
29	31	40	51	59	62	65	69	69	52

Hodgkinson and Weitzman also report the relationships between various modes of giving and secular social attributes. Among these, we found the relationship between giving and age most interesting and troublesome. They show that the young are significantly less likely to report charitable giving than is the older population. Restricted to bi-variate analysis, we can not discriminate among the possible sources of this relationship. Do the young give less because they are less generous, the sterotypical self-involved member of the "me" generation? Is the reason for low levels of giving among the young to be found in the nature of charitable campaigns themselves? Is there some relationship between motivational factors, communal structure and campaign strategies that accounts for the effects of age.

Given the complex nature of the relationships we are about to present, we have restricted our discussion to one community, New York. The New York data clearly show results consistent with the Hodgkinson and Weitzman findings. The young are much less likely to give particularly to the Federation of Jewish Philanthropies campaign. That is, while there is a relationship between age and giving to both non-sectarian and Federation appeals, the effect of age is much greater on the Federation campaign than it is on the non-sectarian causes. (See table 4)

Table 4

Giving to the Federation of Jewish Philanthropies and to non-sectarian causes by age in the New York City Area

	Age of reporting head of household					
	Less than 25	25-34	35-44	45-54	55-64	65 and older
% Giving to Federation	23	31	51	63	69	64
% Giving to Federation controlling for having been asked	39	39	49	57	59	59
% Giving to non-sectarian cause	61	71	75	85	84	69

The difference suggests that some of the source of non-giving lies in the campaign itself. To test that hypothesis we have proceeded further with our analysis of the relationship between age and giving to the Federation of Jewish Philanthropies campaign.

One of the reasons that the young are less likely to give to the Federation campaign is simply that they tend not to be asked to give. Among those 25 and under, 27% report that they have been solicited for a gift as compared with 67% of those between the ages of 55 and 64, the prime giving age cohort. When we take into account the fact of being asked, we find that the initial relationship between age and giving is reduced by about half. In other words, about half of the effect of age on giving to the Federation campaign is attributable to the campaign's having reached out to some but not all prospective givers. Those who report having been asked to give are far more likely to give than those who do not report such an appeal. One of the reasons that the young are less likely to be solicited is that they tend not to be caught up in the communal network that would make them accessible to appeals for funds, and that they do not have the incomes that would make them attractive prospects for fundraising.

Summary and conclusion

Jewish philanthropic campaigns can be understood as direct descendants of biblical acts of charity. In this paper, however, we have presented a preliminary analysis of their mode of functioning in a highly individualistic, bureaucratic context. The relative success of federated Jewish philanthropic campaigns is a function of communal structure and the motivation of individuals. The study of the campaigns then, is a significant activity for its own sake and offers perspective on the nature of Jewish communal structure and the distribution of religiously grounded motivation in a largely secularized America.

References

Hodgkinson, Virginia Ann and Murray A. Weitzman
The Charitable Behavior of Americans
Washington, D.C., 1986

Notes

1. Names are listed in reverse alphabetical order.

2. The sample of communities is drawn from the universe of professionally directed Jewish federations in the United States. New York was excluded because it is so much larger than the other communities that its inclusion would materially change and distort the coefficients reported. With New York included, the same pattern of results is found though the numbers are different.

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THE BUCK TRUST

by
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THE BUCK TRUST[1]

Much of the prevailing wisdom about the Buck Trust litigation is false. The case has been described as significant because of its impact on the legal "*cy pres*" doctrine (discussed below). Commentators have said that the San Francisco Foundation (the "Foundation") was unsuccessful because the Trial Judge's rulings "blocked" the Foundation from "presenting the heart of its case."[2] Neither is accurate. Rather, the scope of the *cy pres* doctrine was and is narrower than the position taken by the Foundation. The Foundation and its attorneys knew this. Their hope was to change the law, which meant taking appeals to the higher courts in California. The Judge's rulings were probably helpful -- not harmful -- in this context.[3] Yet no appeal was ever taken, and the law was never changed.

The case presents fascinating questions about the behavior of the attorneys, the Foundation, and the charitable community in general. Exploration of these issues is clouded by a mystery: why was no appeal taken, and why was the ultimate settlement agreed to? The concluding portion of this paper addresses some of these questions. What follows is a statement of some of the facts, and a description of the litigation.

Background Facts

Frank Buck[4] was a successful investor in Los Angeles real estate, and oil and gas, in the late 19th century. In 1911, Frank Buck and others founded Belridge Oil Company. When Frank Buck died, the Belridge Oil stock passed to his two sons, one of whom was Leonard. Leonard Buck became a medical doctor after studies at the University of California. Although he did teach pathology, without compensation, he never practiced, but instead concentrated on his investments. He met his future wife, Beryl, while at medical school. She was then training to become a nurse. They married in 1914. They never had children.

Leonard and Beryl Buck moved to the City of Ross in Marin County in 1935, and lived there the rest of their lives. When, in 1938, they moved out of their first Marin house to their new (and final) home next door, they sold the former to John Elliott Cook for $20,000. He had been their attorney on a few prior occasions. He lived next to them for the rest of their lives, and became their friend and principal lawyer. He has lived in that same house for 49 years.

Leonard Buck predeceased Beryl by 22 years.[5] He left his entire estate, including the Belridge Oil stock, to her. The Belridge Oil stock was listed "over the counter," but was not actively traded.[6]

Beryl Buck made substantial charitable gifts during her life. Many of them were given anonymously. Both Beryl and Leonard Buck loved Marin County. (Marin County is the second-wealthiest county in the U.S. Its 220,000 residents have a median family income of over $32,000.)

Beryl Buck executed five wills from 1961 through 1973. The last was dated June 25, 1973. Mr. Cook was the principal draftsman. Each will provided for the creation of a charitable foundation, and each contained a limitation for the use of the funds within Marin County.[7]

John Elliott Cook had met and was impressed with John May, who -- from the early '60's through the mid-'70's -- was the Director of the Foundation, a community foundation which serves the five Bay Area counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo. Like almost all such foundations, the Foundation's governing documents contain a so-called "variance power," intended to permit changes in purposes of charitable gifts with a flexibility much broader than permitted by the legal cy pres doctrine.[8] John Cook, however, says he never knew of this "variance power," never discussed it with Beryl Buck, and was repeatedly assured by John May -- orally and in writing -- that the Foundation would be loyal to Mrs. Buck's wishes.[9] He testified that had he known of such a power, he would not have recommended the Foundation as trustee.[10] Each of Mrs. Buck's five wills named the Foundation as trustee of the Buck Trust.[11]

Beryl H. Buck died on May 30, 1975. Her will was admitted to probate on June 23, 1975. After protracted proceedings, the IRS allowed a charitable deduction to Mrs. Buck's estate in the amount of approximately $11.7 million for her 69,156 shares of Belridge Oil stock.[12] This represented a price of about $170 per share. It had been trading OTC in a range of $85 to $126 per share. In 1979, the stock was sold to Shell Oil Company for $3,665 per share, making the Buck Trust holdings worth $253,456,740.[13] The Foundation knew of this higher value when it agreed to act as trustee of the Buck Trust, and accepted the funds in question.[14]

The Variance Power and the Cy Pres Doctrine

The Foundation had two paths from which to choose if it wanted to modify the Marin-only focus of the Buck Trust.[15] First, it could proceed to invoke its internal variance power. This power, common to community foundations, permits variation of charitable objects from those originally fixed by the donor. No court proceeding is necessary. Such powers were the response of community foundations to a fear of the so-called "Dead Hand," i.e., the need to adhere to inflexible-but-binding restrictive instructions of the donor long after his or her death, regardless of changed circumstances.[16] Invocation of this power, in the case of the

Foundation, required a unanimous vote of the Distribution Committee.

Second, the Foundation could petition the California courts to apply the cy pres doctrine.[17] In its most common form, that doctrine is often described as follows:

> "If property is given in trust to be applied to a particular charitable purpose, and it is or becomes impossible or impracticable or illegal to carry out the particular purpose, and if the settlor manifested a more general intention to devote the property to charitable purposes, the trust will not fail but the court will direct the application of the property to some charitable purpose which falls within the general charitable intention of the settlor."[18]

In the case of Beryl Buck's will, the existence of "a more general intention to devote the property to charitable purposes" was clear.[19] The only question was whether the gift's restriction to Marin County made its purposes "impossible or impracticable or illegal to carry out." None of the parties seriously argued that it was either "illegal" or "impossible" to carry out Beryl Buck's wishes. Thus, the cy pres issue resolved itself into a question about the meaning of "impracticable." Almost all legal observers agreed that the scope of that concept in existing precedents was probably not broad enough to encompass the views argued by the Foundation.[20] The Foundation's petition, then, was not likely to succeed unless the California courts adopted an expansive reading of "impracticability" for purposes of the cy pres doctrine.

The Cy Pres Controversy -- Early Tremors

During the four years following the Final Decree, while "the Foundation administered the Trust, publicly proclaiming its commitment to carry out the terms of Mrs. Buck's will,"[21] pressures were building to change it. Public Advocates, a public-interest law firm in San Francisco headed by Robert Gnaizda, began to argue that at least some of the Buck Trust funds should be used outside of Marin.[22] The California Attorney General also hinted that, at some point, a condition of "charitable surplus or saturation in Marin County" might exist.[23] Furthermore, even the Foundation itself had doubts -- not publicly voiced at that time -- about the geographical restriction.[24] Despite these doubts and pressure from the AG's office, no needs assessment was undertaken.[25]

On April 4, 1983, the Foundation convened a meeting with several persons it selected from the philanthropic community[26] to discuss questions of saturation, limits to giving, needs assessment, and ultimately, the basis, if any, for seeking a change in the Marin-only limitation in the Buck Trust. The meeting did not produce a consensus in favor of varying the terms of Mrs. Buck's will.[27] At a Distribution Committee meeting two months later, however, an informal consensus developed to spend up to ten percent of the Buck Trust funds outside of Marin.[28] No vote was taken at that time.

When the Distribution Committee met in December of 1983, the informal consensus had evaporated. By then, several members of the Committee were opposed to changing the Marin-only restriction.[29] On January 26, 1984, the Distribution Committee formally voted on the question of whether to use the Foundation's variance power to change the geographical limitation. Four members of the Distribution Committee voted for modification, two voted against, and one abstained from voting. Although this split prevented the Foundation from using its inherent variance power to modify the Buck Trust -- because that power could only be exercised by a unanimous vote -- the Foundation took the majority vote as sufficient authorization to commence a court proceeding to modify the Trust under the cy pres doctrine.[30]

The Cy Pres Controversy -- Court Proceedings

On Sunday morning, January 29, 1984, the Foundation announced to Marin County community leaders that it planned to file a petition for modification. The next day, the Foundation filed the petition and held a press conference to announce it.[31] As described by the Court:

> "The Petition for Modification asked that, after a three-year transition period, the Foundation be permitted to spend an undefined portion of Buck Trust income outside Marin County in the four other Bay Area counties served by the Foundation. . . . The Foundation's Petition . . . did not contend that all charitable needs in Marin County had been met, that distributing Mrs. Buck's bequest in Marin County would be illegal or impossible, or that a condition of charitable saturation existed in Marin County. Rather, it contended that, due to the increase in the magnitude of the Buck Trust, the relative affluence of Marin County, and the relative needs in the other counties served by the Foundation, it was 'impracticable', 'inexpedient' and 'inefficient' to comply with the Will's provision . . . ."[32]

After extensive pre-trial disclosure proceedings, the trial began two years later, on February 3, 1986, before Homer B. Thompson, Superior Court Judge. Roughly three dozen lawyers were involved in the representation of the various parties.[33]

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Early during the trial proceedings, Judge Thompson ruled out evidence of comparable needs in other counties.[34] The Foundation did not reply with an offer of proof for several weeks, and its offer, when made, showed signs of having been prepared in some haste.[35]

On July 28, 1986, after nearly six months of trial, the Foundation collapsed. It dismissed its *cy pres* petition. It asked the court to permit it to resign as distribution trustee of the Buck Trust.[36] Its settlement agreement with most of the other parties provided that they would not bring actions against the Foundation, the Distribution Committee members, or Foundation employees for surcharge, and that the legal fees of the Foundation's attorneys would be paid out of the Buck Trust.[37] Larry L. Sipes, Esq., was appointed Special Master.

Notwithstanding the resignation and withdrawal of the Foundation, some of the intervenors,[38] who were not parties to the settlement, continued to urge the court to apply *cy pres*. The court was thus obligated to decide the legal issue. In an opinion filed on August 15, 1986, the court held that *cy pres* was not applicable on the facts at bar, and denied the petition for modification.[39] No appeal was taken by any party from the Court's decision. It has now become final.

Postlude

Martin Paley has resigned as Director of the Foundation. The Foundation has laid off a substantial portion of its staff.

Legal fees were approved by the Court and paid to the attorneys in the litigation, out of the Buck Trust, in the aggregate amount of over $12 million. Counsel for the Foundation received about $3.9 million.

The Special Master and the new Marin County Foundation (as successor distribution trustee) have assumed their new roles. Parties are expected to submit their proposals for a "Big Project" in Marin County, with a final decision on that project to be made after further court hearings on it in August 1987.

Observations and Mysteries

Several matters remain for discussion: the offer-of-proof procedure, and why it was not eagerly exploited by the Foundation's lawyers; the trial strategy of the Foundation's counsel, and why its impact was not foreseen; and the use of the variance power by community foundations after the Buck Trust litigation. They will be considered in turn.

Offers of Proof

If a judge's ruling excludes evidence at a trial, an offer of proof may be made instead. The party wishing to introduce the evidence prepares a statement -- called an offer of proof -- describing what the evidence would have shown had it been allowed. The judge's ruling may then be challenged on appeal.[40] In many ways, offers of proof are better than witnesses: they do not get confused, stutter, or stammer; they do not "break" under cross examination; it takes no trial time to use them; they do not request witness fees or other compensation; and, since they are prepared by lawyers, they often are more focussed on the legal issues than actual testimony.

The Judge's ruling, excluding evidence of comparable needs in other counties, surely was foreseeable. The central legal strategy in the Foundation's case involved proof of comparable needs, and was understood to require an expansive reading of *cy pres* which quite likely could not be resolved without an appeal to the highest court in California. An offer of proof might well have been the best way to get the ultimate legal issue decided. It is submitted that the Judge's ruling, far from "blocking" the Foundation from "presenting the heart of its case," was foreseeable and probably helpful to that case.[41] Yet the Foundation apparently did not have an offer of proof ready when the Judge ruled.[42]

Trial Strategy Impact

The Foundation's "charitable efficiency" theory required it to prove that more "efficient" and "effective" philanthropy could be carried on if funds were spent outside of Marin County. There were two inevitable consequences: first, the case required proof of needs outside of Marin; second, it required a showing of relative *in*efficiency within Marin. The first aspect was the subject of the Judge's exclusionary ruling, discussed above, and thus no such evidence was introduced. Evidence as to the second aspect, however, was permitted. The Foundation's counsel duly called witnesses to testify how the grant-making activities of the Foundation had been inefficient, i.e., to disparage the prior Marin County grants of the Foundation.

This had several painful consequences. The Foundation staff responsible for the grants in question felt attacked and undermined. Their morale was seriously affected, and they became angry at the Foundation for subjecting them to such "abuse." The Marin County grant recipients felt betrayed and angered, and became much more aggressive both in their opposition to the Foundation's petition and in favor of the removal petitions. The relationship between the grant maker and the grant recipients was deeply damaged, perhaps beyond any hope of repair.[43] The public image of the Foundation, which was now itself impugning the grants which it had so often before extolled, was seriously disfigured.

There is reason to believe that the Foundation management had not realized the need to introduce such evidence of inefficiency at the trial.[44] It is quite clear that the effects of this sort of testimony were extremely deleterious to the Foundation, and probably had a significant effect upon its ultimate decision to settle the case on terms which amounted to total defeat.[45]

Variance Power and Community Foundations

As mentioned above, community foundations usually provide for an internal variance power in their governing documents. This power, designed to avoid the "Dead Hand" problem, has often been touted as desirable.[46] Will it continue to be so advertised after the Buck litigation? Will such powers be exercised as frequently as before?[47]

There have always been fears that an overly-broad exercise of such a power, just like an expansion of the cy pres doctrine, might deter future charitable giving.[48] Now added to that concern is heightened sensitivity to the "will busting" charges which came to dominate press and public reaction to the Foundation's case. The Community Foundations of America placed a half-page advertisement in the New York Times Book Review on November 23, 1986. It urged readers to make contributions to community foundations. It never even hinted at the existence of any variance powers. It did say that donors:

> "enjoy several unique benefits, including . . . the right to specify the purpose for which your dollars are to be used; and the assurance that your gift will live on in perpetuity, always carrying out the purpose you originally established."[49]

Conclusion

Even though the Buck Trust case did not illuminate cy pres law, it will continue to be discussed and contemplated because of its power to evoke deeper considerations about philanthropy. For example: what should be the minimum size of a "charitable" class? Under what circumstances should a trustee seek, or a court permit, variances from a donor's original restrictive intent? To what extent does that turn on questions of what the donor actually wished -- or might have wished?[50]

In the action itself, the Foundation was a real "loser." In part, that seems to have been the result of the way its lawyers conducted themselves. In part, it derived from the way the press treated the issues. In part, it eventuated from the apparently-changed views of the AG.[51] In part, it stemmed from a perceived loss of support for the Foundation's position among the rest of philanthropic community.[52] In part, it may have followed from the simple wear and tear of the litigation process.[53] Other factors may have contributed.[54]

Attention should not be limited to post mortems, however. Of equal or greater importance will be future developments. As for Marin County, observers will have to watch carefully what now will happen with the Buck Trust, under its new trustee, the Marin County Foundation. In the broader charitable context, observers will scrutinize the conduct of the rest of the philanthropic community to see whether it becomes more cautious in administering gifts. Balanced judgment is still crucial. The Buck Trust case teaches a important lesson about appropriate fidelity to the wishes of a donor. It would be sad, however, if the Buck Trust trauma leads to undue timidity in making "risky" but creative grants, seeking variances, employing cy pres, and avoiding unnecessary adherence to "Dead Hand" restrictions.

FOOTNOTES

1. Copyright © 1987 Harvey P. Dale. All Rights Reserved. Much of the factual material about the Buck Trust case, below, is taken from Statement of Decision, Superior Court of the State of California, County of Marin, *In the Matter of the Estate of Beryl H. Buck, Deceased*, No. 23259 (August 15, 1986), Homer B. Thompson, J. (*hereinafter* the Decision). Some of it, however, derives from newspaper and magazine articles, the Trial Briefs of the parties in the litigation, and personal interviews by the author. The facts are believed accurate through the date of writing: January 20, 1987. A forthcoming issue of the University of San Francisco Law Review is entirely devoted to the case, and will contain contributions from several of the attorneys who were involved in the litigation.

2. The Council on Foundation's FOUNDATION NEWS, July/Aug. 1986, at 6, said:

> "But it was not name-calling that finally moved the San Francisco Foundation to withdraw. Having been blocked by California Superior Court Judge Homer B. Thompson from presenting the heart of its case . . . the foundation recognized that its request was headed for certain defeat."

Other press reports also generally treated that ruling as a terrible blow to the Foundation's case. Thus, the San Francisco Examiner, on July 13, 1986, wrote that the Judge's ruling "removed the heart of the San Francisco Foundation's legal case . . . ." The Marin Independent Journal, on July 12, 1986, asserted that the ruling "had gutted its case." The Tribune (Oakland, California), on July 18, 1986, declared, "Thompson's ruling left foundation attorneys floundering without a case." Even the New York Times, on July 26, 1986, said that the Judge's ruling "dealt a lethal blow" to the Foundation. The Council on Foundations' Newsletter of August 1986 (Vol. 5, No. 12) said, "An evidential ruling by Judge Thompson early in the case made it difficult for the San Francisco Foundation to prove that the Trust ought to be modified under a 'Cy pres' . . . ."

3. See the discussion of offers of proof, below.

4. This Frank Buck has no relationship to the "bring 'em back alive" character.

5. He died on December 23, 1953; she survived until 1975.

6. More than 95% of the Belridge Oil stock was then held by two major oil companies and three families. According to John Elliott Cook, Beryl Buck was familiar with the business and reserves of the company. She, like her husband, viewed the stock as their "crown jewel," and thought it was worth much more than the traded price OTC. They both told John Cook not to sell it, but to hold until it became much more valuable.

7. The Tenth Clause of Mrs. Buck's last will directed that the residue of her estate, to be known as The Leonard and Buck Foundation:

> "shall always be held and used for exclusively non-profit charitable, religious or educational purposes in providing care for the needy in Marin County, California, and for other non-profit charitable, religious or educational purposes in that county." (Quoted in the Decision, p. 4)

Note that this language does not restrict the beneficiary class to Marin residents: as long as the funds are spent within Marin, the benefits can flow outside of the County. The quoted language was incorporated into a July 16, 1979, Stipulation for Final Distribution ("Stipulation"), among the Foundation, Mr. Cook, and Wells Fargo Bank, the trustees of the Buck Trust, which was also approved by the Attorney General of California. On December 17, 1979, the Court entered a preliminary Decree Establishing Trust, Distributing Assets Thereto, and of Preliminary Distribution (the "Preliminary Decree"). The Preliminary Decree also contained the quoted language. The Decree of Settlement of Second and Final Account and Supplemental Account of the Executor and of Final Distribution (the "Final Decree"), dated March 24, 1980, repeated the quoted language.

The last paragraph of the Tenth Clause of the will provides as follows:

> "The assets hereof are irrevocably dedicated to charitable, religious or educational purposes. If the purposes specified herein cannot, at any time, be accomplished, the then remaining assets shall be distributed to such public charities, for charitable, religious or educational purposes, as the Court having jurisdiction in the matter shall determine proper." (Quoted in the Decision, p. 14)

This paragraph was added by Mr. Farrell, who assisted Mr. Cook in the drafting of Mrs. Buck's final will, as a tax-savings clause to insure the deductibility of the charitable request.

8. The *cy pres* doctrine played a large role in the saga of the Buck Trust litigation. Both the variance power and the *cy pres* doctrine will be discussed further, below.

9. Trial Brief of Co-Trustee John Elliott Cook, January 23, 1986 (*hereinafter* Cook Trial Brief), at 9.

10. The "variance power" was never exercised. It required a unanimous vote of the Distribution Committee to invoke, and the committee was never able to vote unanimously on the question.

11. More accurately, the Foundation was named as *distribution* trustee, in contrast to the investment trustees, which were John Cook and Wells Fargo Bank.

12. The Internal Revenue Service had at first claimed that the Buck Trust would not qualify for an estate tax charitable deduction. On appeal to the national office of the Service, however, the deduction was allowed. This made moot the valuation question, because the entire residuary bequest became free from estate tax. Cook Trial Brief at 12.

13. Cook Trial Brief at 13. The present value of the trust assets is approximately $450 million. That makes the Trust one of the twenty largest foundations in the country, and probably larger than any other community foundation.

14. See note 7, *supra*. As the court said, "The Foundation accepted the Buck Trust fully cognizant of the increased value of its assets and of the administrative burden such a large trust would impose on a relatively small community foundation." The Decision, p. 104.

15. No implication is intended that either route was free from legal risk. Indeed, use of either quite probably would have generated litigation, and -- as will be seen -- the selection of the latter certainly did.

16. The "Dead Hand" concern is long-standing. See, e.g., A. HOBHOUSE, THE DEAD HAND (Chatto & Windus, London 1880). The community foundation response (i.e., the use of variance powers) and the role of Frederick Harris Goff (a Cleveland lawyer who was peculiarly obsessed with the "Dead Hand" problem) are described in HOWARD, TRUST FOR ALL TIME: THE STORY OF THE CLEVELAND FOUNDATION AND THE COMMUNITY TRUST MOVEMENT (1963). Literature published by community foundations, and by their national organization, Community Foundations of America (which shares offices in Washington, D.C., with the Council on Foundations), historically has trumpeted the importance of the variance power. The Buck Trust case may

have changed that, as discussed in the final portion of this paper, below.

17. "Cy pres" is an abbreviation of the Norman-French phrase, "cy pres comme possible," which translates, "as near as possible."

18. RESTATEMENT (SECOND) OF TRUSTS section 399 (1959). The literature analyzing the *cy pres* doctrine is vast. References are not here provided, but can be found, *inter alia*, in Comment, *Cy Pres Inexpediency and the Buck Trust*, 20 U. SAN FRAN. L. REV. 577 (1986).

19. See note 7, *supra*, for the language of the last paragraph of the Tenth Clause in the will.

20. See the legal memorandum quoted in note 24, *infra*. Also see generally Comment, *Cy Pres Inexpediency and the Buck Trust*, 20 U. SAN FRAN. L. REV. 577 (1986).

21. The Decision, pp. 19-20. As late as January 4, 1983, Martin Paley, the Foundation's Director, wrote a memorandum recommending against varying the Marin-only restriction, and arguing that there was ample opportunity for effective philanthropy within that County. The memorandum contains the following language:

> "[T]he program, policies and processes of The Foundation as they relate to the Buck Trust in Marin County are in place and progressing satisfactorily. . . . [T]he level of acceptable and appropriate grant applications, both in number and dollar value, substantially exceeds the spendable income generated by the Buck Trust. I do not foresee any change in that condition, in which worthwhile requests exceed available income, within at least the next five years."

(The letter is reproduced as exhibit B to the Attorney General's Trial Brief, dated February 3, 1986 (*hereinafter* AG Trial Brief).)

22. See Cieply, *Enhanced Lotus-Eating*, FORBES, July 19, 1982, at 89 (quoting Gnaizda as saying, "It's a perversion of philanthropy.") The Trial Brief of the Foundation, dated January 23, 1986 (*hereinafter* Foundation Trial Brief), documents these criticisms, and those of the AG, at pages 31-36.

23. The AG so stated in obtaining a court order, in December 1980, requiring the Foundation to file annual reports about the Buck Trust. See Comment, *Cy Pres Inexpediency and the Buck Trust*, 20 U. SAN FRAN. L. REV. 577, 585 (1986) (quoting the "saturation" language). See also Brickley & Powledge, *Marin County Legacy, or the Curse of the Buck Bucks*, THE NATION, May 14, 1983, at 608.

The AG also began to press for a study of needs in Marin County, and asked the Foundation to appoint an independent expert to conduct such a needs assessment.

24. Even before it accepted the Buck Trust, some people at the Foundation had serious concerns about its administration. As early as June 1979, the Foundation began to explore the possibility of modifying the geographical restriction of the Buck Trust. A legal memorandum dated July 26, 1979, directed to Mr. Harris, then vice-chairman of the Distribution Committee, as well as counsel for the Foundation, states, in reference to "the suggested petition" that:

> "Although no United States court has as yet been as liberal in its application of the cy pres doctrine as the proposed petition would require, a tenable argument could nevertheless be made for application of the doctrine."

The author -- who was a summer associate at the Foundation's outside law firm -- concluded that:

> "'[c]haritable' is so broad in scope that the San Francisco Foundation could never successfully argue on the basis of the will alone that Mrs. Buck's intentions had been fully carried out." (Quoted in the Decision, p. 20)

The possibility of changing the will arose at a meeting of the Distribution Committee and Foundation staff held on November 10, 1979, one month before the Preliminary Decree was entered. At that time, the Foundation considered "perhaps spending the money outside of Marin County." At its June 1980 meeting, the Distribution Committee had a "brief discussion of the time period for seeking court release from the provisions of the Buck trust." The following month, at its July 1980 meeting, the Distribution Committee discussed "(1) Marin's capacity to utilize [the Buck Trust income] indefinitely, and (2) the question of court action regarding the provisions of the trust." The Distribution Committee "agreed to follow the letter of the will until [the Foundation has] enough experience to determine that this is not feasible."

25. Pursuant to a court order dated December 22, 1980, which initiated the monitoring proceedings, the Foundation filed five annual reports on its administration of the Buck Trust. None of these reports contained any assessment of the charitable needs in Marin County, or any systematic or comprehensive assessment of the impact of the Buck Trust grant making. "In fact, the Foundation has insisted that such [needs-assessment] studies are neither feasible nor useful." The Decision, p. 29. Thus, in a January 21, 1983, response to the AG, the Foundation said it "has serious

reservations concerning . . . the appropriateness of a 'needs assessment' or the ability of an expert to identify 'objective needs' in Marin County." Foundation Trial Brief at 37. Despite the reservations of its Director, the Foundation did hire a consultant, Stephen M. Pittel, to study whether there was "a theoretical upper limit" for grant making in Marin. Dr. Pittel's May 16, 1983, study concluded:

> "1. It is unlikely that any level of charitable giving will eliminate or significantly reduce the legitimate needs of a community.
>
> "2. It is unlikely that any level of charitable giving will necessarily have a harmful impact on a community."

Quoted in the Decision, at 31, and in County of Marin's Trial Brief, February 3, 1986 (hereinafter Marin Trial Brief), at 9. The study was not disclosed to the AG. AG Trial Brief at 22.

26. Those attending included Paul Ylvisaker of Harvard University, John Simon of Yale University, Susan Berresford of the Ford Foundation, Tom Layton of the Gerbode Foundation, and Tom Beech of the Minneapolis Foundation. Others in attendance included members of the Foundation's Distribution Committee, Foundation management, and Foundation counsel. Foundation Trial Brief at 39.

27. The participants discussed "distribution of the Buck Trust outside of Marin County" and "alternatives to outside distribution," including a proposal "treating Marin as a laboratory for developing models of social service delivery." The Decision, p. 32. Martin Paley, the Foundation's Director, "observed that the Foundation staff is presently comfortable with Marin grantmaking, and it does not believe that the saturation level has begun to be approached." Memorandum of Meeting Held April 4, 1983, quoted in Marin Trial Brief at 9. Robert Harris, a Distribution Committee member and attorney, stated that the "Distribution Committee has identified virtually no support for a 'relative need' approach." Id.

28. Foundation Trial Brief at 41-42.

29. Foundation Trial Brief at 44.

30. The January 26, 1984, resolution of the Distribution Committee stated that it was "impracticable and inexpedient" to continue to spend all of the income from the Buck Trust in Marin County, and authorized the filing of a petition to modify the geographic restriction.

31. The Foundation did not inform the Buck Trust beneficiaries or Marin County of its intention to seek modification until the day before it filed the petition for modification. In addition, the Foundation did not consult with or even advise most of its staff members of its intention to seek modification prior to the filing of the petition.

32. The Decision, pp. 1-2. This litigation theory led inexorably to a trial strategy which had a dramatic effect upon the Foundation and its staff: it made it necessary for the Foundation to prove that its prior grant-making activities in Marin County were less "efficient" than alternatives outside of that County. See the discussion of trial strategy impact, below.

33. Supporting the petition for modification, as intervenors, were the so-called forty-six objector beneficiaries, represented by Public Advocates; opposing it were the County of Marin, the Attorney General of California, the investment co-trustees (John Elliott Cook and Wells Fargo Bank), the Marin Council of Agencies (MCA), and, as *amicus curiae*, the Marin County Bar and the Pacific Legal Foundation. Finally, three intervenors -- the counties of Sonoma and Solano and the Regents of the University of California -- took no position on the propriety of modification, but sought a share of Buck Trust income should the modification be granted the court.

Concurrently with the Foundation's petition for modification, the court considered (1) the petitions for the removal of the Foundation as trustee, filed by Marin County, John Elliott Cook, and the Marin Council of Agencies (the "removal petitions"), (2) a petition for instructions, filed by the Attorney General, and (3) a petition for instructions relating to certain grant-making policies, filed by the Foundation on April 17, 1986.

34. It was this ruling that commentators said "blocked" the Foundation from "presenting the heart of its case." See note 2, *supra*.

35. A further discussion of offers of proof is deferred until later in this analysis, below.

36. As described in the Decision, concurrently with that petition, the court heard the joint petitions of the County of Marin, the Marin Council of Agencies, and the AG for the appointment of a successor distribution trustee and a special master. All of these petitions were granted by the court after hearing on July 31, 1986, rendering moot the removal petition. In addition the AG and the Foundation dismissed their petitions for instructions. The Decision, p. 3.

37. Agreement dated July 25, 1986 (the "Settlement Agreement"), attached as Exhibit A to the Petition of the San Francisco Foundation to Resign as Distribution Trustee of Charitable Trust, dated July 28, 1986.

38. I.e., the so-called forty-six, represented by Public Advocates.

39. The Decision, *op. cit. supra*, note 1.

40. For a general discussion of offers of proof, see E. CLEARY, McCORMICK ON EVIDENCE 123-26 (3d ed. 1984), and authorities cited therein.

41. It was, of course, *not* helpful if the Foundation expected to prevail at the trial level, rather than having to pursue an appeal. But it seems unlikely that counsel would stake everything on a trial-level victory, given the state of the law on *cy pres* in California.

42. As mentioned above, the Foundation's offer of proof was not submitted for several weeks after the Judge's exclusionary ruling. See text at note 35, *supra*. No appeal, based upon the offer of proof, was ever pursued; although an application was made for leave to file an interlocutory appeal, it was denied.

43. In an interview with the Pacific Sun, after the litigation had been settled, Marin County Counsel Douglas J. Maloney said:

> "We required them to list every grant that they claimed was 'inefficient' so they put out a . . . 'hit list.' Up to that point a lot of Council of Agency members had been unwilling to go all out for removal of the foundation. But when agencies read that the foundation had called *their* grant ineffective or inefficient, they became really riled and a lot more militant in court. When (SFF program executive John) Kreidler testified, he said that all these arts organizations were inefficient and ineffective. The first question I asked him (on cross examination) was, 'Do you realize that you've destroyed everyone's reputation?' From then on they were pussyfooting around, afraid to really go after any agency for fear they would alienate more agencies and get hit repeatedly with the same kind of cross-examination.
>
> "Kreidler was one of their best witnesses, one of the smartest guys down there, and he just crashed and burned. Plus he got all those arts groups after him."

Zimmerman, *SunInterview*, Pacific Sun, August 1-7, 1986, at 5.

A more recent article says:

> "To prove that Buck grants in Marin were 'inefficient' and would be better spent elsewhere, [the Foundation's counsel] tried to show how Marin groups wasted the money. To do so, [he] put San Francisco Foundation program directors on the stand to criticize Marin County charities that were receiving Buck grants. In Buck trial parlance, this became the famous 'hit list.' It was the turning point of the trial.
>
> "'For years the foundation had told these people (the heads of charities) they were doing a good job,' [Yeoryios] Apallas [Deputy Attorney General of California assigned to the Buck Trial] says. 'Then all of a sudden they get handed a report card with failing grades.' The hit list galvanized the normally mild-mannered human-services counselors into a hard-bitten brigade of angry fighters on the witness stand."

Bartholomew, The Battle for the Buck, LOS ANGELES TIMES MAGAZINE, December 21/28, 1986, at 26-28.

44. Foundation Director Martin Paley says he had specifically asked whether such evidence would be required, because he was very troubled about that prospect. He says he was assured by counsel that it would not be necessary to impugn the Foundation's prior activities or its staff's competence. He says that if he had understood, in advance, that such evidence would be necessary, he would have opposed the litigation, and believes that almost all of the Distribution Committee members would have also.

45. It is not contended that this was the only or even the most important reason for the settlement. By the Spring of 1986, the membership of the Foundation's Distribution Committee had changed significantly from what it had been in January 1984, when the vote authorizing the litigation was taken. Press reports about the case had turned from generally favorable towards the Foundation's cy pres case to generally hostile to what had become to be perceived as "will busting." An appeal to higher courts, always known to be at least a likely possibility, had become a clear necessity if the case was to be pursued. Other factors may also have played a part.

46. See note 16, supra.

47. It is not known how frequently they have been exercised in the past.

48. Many statements to that effect can be found in the writings about the Buck Trust case. No empirical data are known to the author, however, which shed light on whether such a chilling effect does indeed occur. The U.K. Charities Act of 1960 adopted a quite dramatic expansion of the *cy pres* power. It would be interesting to find out whether any measurable decline in charitable giving resulted there.

49. NEW YORK TIMES BOOK REVIEW, November 23, 1986, at 27.

50. The Foundation, and some of its consultants, argued that Beryl Buck should not be presumed to have desired a Marin-only restriction for such an enlarged trust corpus. For example, Professor John Simon notes that most foundations observe some proportionality between the breadth of coverage and the amount of funds being distributed, which he calls the "philanthropic standard." Referring then to "posthumous surprise," he argues:

> "The gift Mrs. Buck *thought* she was making was not inconsistent with that standard. But as it turned out, the gift she *in fact* made is so grossly out of line with that standard as to cause us to ask whether she would have wished to be the one exception to the standard -- or whether, instead, she would have wished to share some of her unexpected wealth with Marin's neighbors served by the Foundation." *Professor John Simon -- P.S. On "The Philanthropic Standard",* THE PHILANTHROPY MONTHLY, February 1986, at 20.

John Elliott Cook, on the other hand, affirms that Mrs. Buck would have desired a Marin-only limitation regardless of the size of the bequest. The Court so found, stating:

> "While Mrs. Buck may not have known the exact value of the residue of her estate before her death, she intended that the Buck Trust always be devoted to . . . Marin County irrespective of its value." The Decision, p. 112.

If the issue is one of fact, and is to be gleaned from the documents, what may result is merely a change in drafting style. For example, Mrs. Buck's Tenth Clause might have contained an extra sentence reading something like: "I intend the Marin-only limitation regardless of the value of my residuary estate," In more terse form: "I really mean it!"

51. In the early days of the Buck Trust, the AG was articulating concerns about the Marin-only restriction, and discussing possible charitable "saturation." By the time of the trial, the AG was aligned with Marin County in opposition to the petition of the Foundation. Although the AG's staff articulates reasons for view-

ing its positions as always consistent, most observers disagree, and think a "flip-flop" occurred.

52. Martin Paley says that many of his "friends" from other foundations stopped calling him, and would no longer have lunch with him.

53. It is tempting to suggest that the Foundation's staff and the members of its Distribution Committee -- chosen or self-selected for quite different traits than those required for courtroom warfare -- were simply not "tough enough" to engage in protracted litigation.

54. As noted above, the membership of the Distribution Committee had changed between January 1984, the date of the vote to begin the litigation, and July 1986, the date of the settlement. And, with the passage of time, the weaknesses in the Foundation's legal position may have seemed more substantial.

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THE COMBINED FEDERAL CAMPAIGN

by
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THE COMBINED FEDERAL CAMPAIGN[1]

The Combined Federal Campaign (the "CFC") is the U.S. Government's charitable-giving-in-the-workplace program. It grew out of intensifying study of the area from 1948 through 1956.[2] The rules adopted in 1956 were ratified by an executive order issued by President Eisenhower in 1957.[3] The program, not then known as the CFC, was run twice each year. In 1961, supervision of the program was transferred from the White House to the Civil Service Commission by President Kennedy.[4] In 1964, the campaign became a once-a-year program, and the name, "Combined Federal Campaign," was first used. The program is still governed by Executive Orders,[5] implementing regulations,[6] and a handbook -- the Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Agencies.[7] Controversy about the CFC grew significantly in the early 1980's, as the result of litigation,[8] various Congressional hearings, the appointment of Donald J. Devine as head of OPM, and the promulgation by President Reagan of two executive orders affecting the CFC.[9]

The controversy has produced eight fairly-recent major court decisions (including one by the Supreme Court of the United States), at least four sets of Congressional hearings, several law review articles, and a fair volume of other writings. Ferment continues in Congress and in the courts. Activities in both forums will be considered, separately, below.

The Congressional Hearings

The first of the relevant hearings was held on four days in October 1979, before the House Subcommittee on the Civil Service, chaired by Patricia Schroeder, Congresswoman from Colorado.[10] Four years later, several hearings were held. The House Subcommittee on Civil Service held hearings on March 9 and 10, 1983. The House Subcommittee on Manpower and Housing held a hearing on March 24, 1983, under the chairmanship of Barney Frank, Congressman from Massachusetts.[11] It held further hearings on June 23 and July 19 of the same year. Under date of October 28, 1983, the House Subcommittee on Civil Service issued a staff report, prepared by Andrea Nelson, examining OPM actions from 1981 through 1983 to exclude Planned Parenthood Federation of America from CFC participation. On May 15, 1984, the House Subcommittee on Manpower and Housing had hearings on the CFC.

The Litigations[12]

The earliest of the cases is National Black United Fund v. Campbell, 494 F. Supp. 748 (D.D.C. 1980). NBUF, a national black voluntary welfare organization, brought a proceeding challenging the Civil Service Commission's rejection of its application to participate in the CFC. There were two ways NBUF could have been included: by establishing it was a "national voluntary agency" or by becoming a member of United Way.[13] NBUF did not wish to become a United Way affiliate. The Commission then required any group requesting treatment as a "national voluntary agency" to maintain chapters in all or nearly all states. NBUF was not able to meet this test.[14] The District Court granted summary judgment for NBUF, holding that the rule was arbitrary, discriminatory, and in violation of NBUF's First Amendment rights.

On appeal, however,[15] the D.C. Circuit Court reversed. It did not dismiss NBUF's claims.[16] It merely found that summary judgment was not an appropriate remedy, and remended for further fact-finding proceedings,[17] stating:

> "While we are not insensitive to the importance of associational freedom, NBUF provided little evidence, and no specific prediction, of how its activities would be affected by affiliation with the local United Ways." National Black United Fund v. Devine, 667 F.2d 173, 180 (D.C. Cir. 1981).

The third decision was NAACP Legal Defense & Educ. Fund v. Campbell, 504 F. Supp. 1365 (D.D.C. 1981).[18] The plaintiffs were non-profit, tax-exempt, civil rights advocacy groups whose activities principally consisted of litigating for the rights of minority groups and others. They claimed that their exclusion from the CFC violated their First and Fifth Amendment rights. The exclusion was based on a portion of the Manual limiting participation to organizations "providing direct services to persons in the fields of health and welfare services . . . ."[19] The CFC did allow public defender and legal aid groups to participate, but had denied participation to the plaintiffs because of their selection of clients not solely on the basis of need but rather on the basis of how the client's case might influence public policy. The Court held the "direct services" language in the Manual to be too vague to be valid under First Amendment (freedom-of-speech) precedents. It ordered the Government to permit plaintiffs to participate in the next ensuing CFC.[20] The government did not appeal. Pursuant to this ruling, the plaintiffs participated in the 1981, 1982, and 1983 campaigns.

In NAACP Legal Defense & Educ. Fund v. Devine, 560 F. Supp. 667 (D.D.C. 1983), two of the same plaintiffs, claiming under the due process and equal protection clauses of the Fifth Amendment, as well as under the First Amendment, attacked the CFC method for distributing so-called "undesignated funds." The plaintiffs had been allowed to participate in the CFC, and had received funds to the extent that workplace donors had designed them as recipients. Some donors, however, gave to the CFC without designating any specific recipient. Those "undesignated funds" were allocated among various donees first under a complex formula, and then -- to the extent of any residual unallocated undesignated funds -- by local CFC coordinating groups.[21] On March 31, 1983, the court

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rejected all of the plaintiffs' claims. It found the First Amendment claims lacking in merit because, unlike the earlier *NAACP Legal Defense & Educ. Fund v. Campbell* case,[22] the plaintiffs had been allowed to solicit *designated* funds, and thus had been permitted to circulate material describing their goals and operations. The plaintiffs did not appeal.

The fifth case, and the one which eventually reached the Supreme Court, was *NAACP Legal Defense & Educ. Fund v. Devine*, 567 F. Supp. 401 (D.D.C. 1983), decided on July 15, 1983. The plaintiffs challenged the newest Executive Order (E.O. 12,404)[23] on First and Fifth Amendment grounds, claiming it would operate to exclude them from the CFC. E.O. 12,404 was designed to reinstate the "direct services" requirement which had been found invalid in *NAACP Legal Defense & Educ. Fund v. Campbell*.[24] The court appraised these claims in light of recently-decided Supreme Court First Amendment doctrine. A brief detour is thus required.

In *Perry Education Ass'n v. Perry Local Educator's Ass'n*, 460 U.S. 37 (1983), the Supreme Court, in a 5-4 decision, had refined its method of analysis of free speech claims.[25] Prior to that decision, the Court had recognized only two types of forums, public and private. The former -- including public streets and parks -- were open to broad First Amendment rights. Access could not be restricted except as "necessary to serve a compelling state interest" and then only if the restriction "is narrowly drawn to achieve that end."[26] Free speech in private forums, however, could be restricted as long as the restriction was reasonable and content neutral.[27] In *Perry*, a third type of forum -- the limited public forum -- was recognized. It was described as "public property which the State has opened for use by the public as a place for expressive activity."[28] Examples include university meeting facilities, school board meetings, and municipal theatres.[29] Access to a limited public forum is governed by the same standards as those which apply to public forums, but the state may convert such forums into private forums by prospectively treating them as no longer open for public "expressive activity."[30]

Returning from the *Perry* detour -- the District Court in *NAACP Legal Defense & Educ. Fund v. Devine* found that the CFC was *not* a private forum, and distinguished it from the internal school mail system in *Perry*. Instead, it found that "the CFC is a limited public forum," access to which, under the First Amendment, could not be restricted except by showing "a compelling state interest" and that any restriction "is narrowly drawn to achieve that end."[31] The court concluded that E.O. 12,404, by denying all advocacy groups access to the CFC, violated the First Amendment,[32] and enjoined the OPM from preventing plaintiffs from participating in the CFC.[33]

On appeal, the D.C. Circuit Court of Appeals, in *NAACP Legal Defense & Educ. Fund v. Devine*, 727 F.2d 1247 (D.C. Cir. 1984), affirmed, in a 2-1 decision. The author of the majority opinion did *not* find that the CFC was a limited public forum, holding instead that "it is unnecessary to decide this question."[34] Even in private forums, the Court said, First Amendment restrictions must be reasonable in light of the purpose which the forum serves. It held that the OPM restrictions did not meet that test, and thus were invalid. Of paramount significance was the fact that the OPM had permitted many other organizations, similar to plaintiffs, to participate in the campaign[35] -- a fact which raised:

> "the serious possibility that a speaker . . . has been excluded from a forum, not in furtherance of a legitimate interest of the Government, but instead simply because the speaker has been viewed disfavorably by the Government."[36]

The Supreme Court granted certiorari, and reversed. *Cornelius v. NAACP Legal Defense & Educ. Fund*, 105 S. Ct. 3439, 87 L. Ed. 2d 567 (1985). It held, 4-3,[37] that the CFC is a nonpublic forum, rather than a limited public forum.[38] Unlike the D.C. Circuit Court, the Supreme Court found the restrictions in question to be reasonable.[39] It specifically found that "avoidance of controversy," while not a ground for restricting access to a public forum, *is* a relevant reason for regulating access to a nonpublic forum.[40] It remanded, however, for further proceedings to determine whether the OPM rules were in reality not content neutral.[41]

On remand, the most recent of the decisions was issued by the District Court for the District of Columbia. In *NAACP Legal Defense & Educ. Fund v. Horner*, 636 F. Supp. 762 (D.D.C. 1986), Judge Green issued a preliminary injunction preventing the OPM from excluding the plaintiffs from the CFC, pending discovery proceedings concerning OPM's underlying motives for adopting the contested eligibility criteria.

The Government appealed, and the appeal was granted expedited treatment. Prior to the date of argument, however, Congress acted, passing the so-called "Hoyer Amendment,"[42] which required OPM to use the 1984 version of the regulations for the 1986 CFC.[43] A second "Hoyer Amendment"[44] extended the use of the 1984 regulations through 1987.[45] The D.C. Circuit Court of Appeals accordingly found the case moot for the "Hoyer Amendment" years, but remanded for further proceedings as to later years.[46]

Current Status

Activity continues on both legislative and litigation fronts. In the main litigation, discovery is continuing, and a motion to compel production of various papers, as to which the Government claims executive privilege, is pending. However, the litigation is not being actively pressed at the date of this writing.[47] There is some hope that OPM will promulgate regulations, for post-'87 years, which will be acceptable to the parties. Discussions are going forward in hopes of reaching such an agreement.

The staff of the relevant legislative subcommittee[48] has the CFC under continuing study. Hearings may be needed, but none had been scheduled at the date of this writing.

FOOTNOTES

1. Copyright © 1987 Harvey P. Dale. All Rights Reserved. It is not possible, in the alloted space, to do justice to the many issues involved. A brief (and thus over-simplified) description of some of the main developments will be provided, together with citations to other sources where further details may be found by persons interested in pursuing the issues. This account, then, is not intended to be analytical, but merely descriptive. For another recent survey of the issues, see Green, No End in Sight, FOUNDATION NEWS, May/June 1986, at 23.

2. The historical facts in this paragraph are taken from Executive Orders 12353 and 12404 as they Regulate the Combined Federal Campaign (Part I): Hearing Before the Subcommittee on Manpower and Housing of the House Committee on Government Operations, 98th Cong., 1st Sess. (1983) (hereinafter 3/24/83 Hearing), and particularly from the statement of Rep. Patricia Schroeder, id. at 8-13.

3. E.O. 10,728 (Sept. 6, 1957).

4. E.O. 10,927 (March 18, 1961). The Civil Service Commission was succeeded by the Office of Personnel Management ("OPM") in 1978.

5. The most significant relevant orders, in chronological order, are cited in notes 3 and 4, supra, and note 9, infra.

6. The most recent regulations, as of this writing (January 20, 1987), were promulgated on April 4, 1986, and published at 51 Fed. Reg. 11668. They are codified at 5 C.F.R. Part 950.

7. Hereinafter the Manual.

8. The major litigations, brought by various advocacy groups and challenging restrictions on access to the CFC by potential donee organizations, are discussed below. Other court actions, however, involved charges of duress by supervisors in forcing subordinates to participate in and give to the CFC. A consent decree in Riddles v. Dep't of the Army, Civ. 78-1037 (D.D.C. March 19, 1979), settled a lawsuit by a member of the U.S. Army Band alleging such duress. The decree is reproduced in Combined Federal Campaign: Hearings Before the Subcommittee on the Civil Service of the House Committee on Post Office and Civil Service, 96th Cong., 1st Sess. 736-38 (1979) (hereinafter 10/11-19/79 Hearings). See also testimony of David O. Cooke, Deputy Assistant Secretary of Defense for Administration, id. at 236-43, and the statement and testimony of Benjamin T. Riddles, the plaintiff, id. at 244-52. Other relevant

decisions, not discussed below, challenge restrictions on eligibility to participate in state or city workplace charitable drives. See, e.g., *Black United Fund of New Jersey v. Kean*, 593 F. Supp. 1567 (D.N.J. 1984) (restrictions on access to state fund held unconstitutional), and *United Black Community Fund v. City of St. Louis*, 613 F. Supp. 739 (E.D. Mo. 1985) (restrictions on access to city fund held constitutional).

9. E.O. 12,353 (Mar. 23, 1982), published in 47 Fed. Reg. 12785-86 (Mar. 25, 1982), and E.O. 12,404 (Feb. 10. 1983), published in 48 Fed. Reg. 6685-86 (Feb. 15, 1983).

10. The 10/11-19/79 Hearings, cited at note 8, *supra*.

11. The 3/24/83 Hearing, cited at note 2, *supra.*

12. Further analysis is provided in some of articles cited in the notes that follow. The selected decisions all involve the CFC and all were handed down in the 1980's.

13. Section 5.4 of the Manual then provided that groups which were "members in good standing of, or . . . recognized by, the United Way of America" were exempt from the normal requirements for participation. Quoted in the appellate decision, 667 F.2d at 176.

14. NBUF also failed to meet certain administrative-cost-ratio standards. In his letter rejecting NBUF's application to participate in the campaign, "the Chairman of the Commission suggested that NBUF make arrangements to participate through local United Ways." 667 F.2d at 177.

15. The government did not appeal. United Way, as intervenor in the lower-court case, did.

16. Indeed, relying on *Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980), it explicitly found that "charitable solicitation undoubtedly furthers interests protected by the First Amendment," and that "the written message in the CFC pamphlets . . . advances protected speech and associational interests." 667 F.2d at 178.

17. It appears that the parties did not proceed with the litigation after the Circuit Court's remand. NBUF was allowed to participate in the campaign after the 1980 decision, and has referred to the proceedings as "our Federal court victory," notwithstanding the appellate reversal and remand. Statement of Garland Jaggers, President, NBUF, 3/24/83 Hearing at 184.

18. It was actually decided *prior* to the appellate decision in *National Black United Fund v. Devine*, 667 F.2d 173 (D.C. Cir. 1981), reversing *National Black United Fund v. Campbell*, 494 F. Supp. 748 (D.D.C. 1980), discussed immediately above, and was in fact referred to in the D.C. Circuit's opinion.

19. Section 5.21 of the Manual, quoted at 504 F. Supp. 1366.

20. The court did not consider the plaintiffs' alternative Fifth Amendment claims. 504 F. Supp. at 1368, note 4. It also refused to award damages for the wrongful exclusion of the plaintiffs from the preceding (1980) campaign. 504 F. Supp. at 1369.

21. The formula then was, and continues to be, hotly contested. See 560 F. Supp. at 670-74.

22. 504 F. Supp. 1365 (D.D.C. 1981), discussed *supra*.

23. Cited at note 9, *supra*.

24. 504 F. Supp. 1365 (D.D.C. 1981), discussed *supra*.

25. *Perry* involved the claims of a rival union, seeking to organize teachers, which was denied access to teachers' school mailboxes and to the interschool mail system pursuant to a collective bargaining agreement giving the existing union exclusive access to them.

26. 460 U.S. at 45.

27. Content neutrality is shorthand for the notion that the regulation is "not an effort to suppress expression merely because the public officials oppose the speaker's view." 460 U.S. at 46. As the dissent described it, "the concept of content neutrality prohibits the government from choosing the subjects that are appropriate for public discussion." 460 U.S. at 59.

28. 460 U.S. at 45.

29. *Id*.

30. In *Perry*, the school mail facilities were held to be private forums, rather than public or limited public forums. The Supreme Court upheld the collective bargaining agreement, and denied the rival union access to those facilities. Justices Brennan, Marshall, Powell, and Stevens dissented.

31. 567 F. Supp. at 407.

32. It said that the First Amendment's requirement of content neutrality "'extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic.'" 567 F. Supp. at 407, quoting Consolidated Edison Co. v. Public Serv. Comm'n, 447 U.S. 530, 537 (1980).

33. The plaintiffs were allowed to seek "designated contributions," but their claim to a portion of "undesignated contributions" was dismissed. 567 F. Supp. at 410.

34. 727 F.2d at 1257. The concurring judge would have found that the CFC was a limited public forum. 727 F.2d at 1268.

35. Thus, legal aid societies and public defender organizations were allowed to participate.

36. 727 F.2d at 1259.

37. Justices Marshall and Powell did not participate. Justices Blackmun, Brennan, and Stevens dissented. (The dissenters in Perry had been Justices Brennan, Marshall, Powell, and Stevens. See note 30, supra.)

38. 105 S. Ct. at 3451.

39. The Court said:

> "The Government's decision to restrict access to a nonpublic forum need only be reasonable; it need not be the most reasonable or the only reasonable limitation. . . . Nor is there a requirement that the restriction be narrowly tailored or that the Government's interest be compelling." 105 S. Ct. at 3453.

40. "The First Amendment does not forbid a viewpoint-neutral exclusion of speakers who would disrupt a nonpublic forum and hinder its effectiveness for its intended purpose." 105 S. Ct. at 3454.

41. It said that "[t]he existence of reasonable grounds for limiting access to a nonpublic forum, however, will not save a regulation that is in reality a facade for viewpoint-based discrimination." 105 S. Ct. at 3454. For analyses of the Supreme Court's opinion see Comment, The Supreme Court, 1984 Term: Leading Cases, 99 HARV. L. REV. 120, at 202-12 (1985); Comment, Constitutional Law: The End of the Limited Public Forum?, 25 WASHBURN L.J. 375 (1986); and Note, Forum Over Substance: Cornelius v. NAACP Legal Defense & Education Fund, 35 CATHOLIC U.L. REV. 307 (1985).

42. Proposed by Representative Steny Hoyer, D-Md., and passed as section 204 of the Urgent Supplemental Appropriations Act of 1986, Pub. L. No. 99-349, 100 Stat. 748-49 (July 2, 1986).

43. Actually, new regulations may be promulgated if they are not more restrictive than the '84 regulations. The text of section 204 reads:

> "None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with organization participation in the 1986 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in the 1986 campaign."

44. Section 619 of Pub. L. No. 99-591, 100 Stat. __ (Oct. 30, 1986).

45. The text of section 619 is identical to the text of section 204 of the Urgent Supplemental Appropriations Act of 1986, quoted in note 43, _supra_, with two changes. First, the 1987 year of the CFC is also included in the prohibition. Second, additional language is added, reading as follows:

> "_Provided further_, That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine [sic] the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group."

46. At first, the Circuit Court remanded with instructions to dismiss on grounds of mootness. On motion for reconsideration, however, the Court eliminated the dismissal order, recognizing that the legislation did _not_ moot the issue for post-'87 years.

47. I.e., January 20, 1987.

48. The Subcommittee on Employment and Housing, Committee on Government Operations, House of Representatives. This was previously called the Subcommittee on Manpower and Housing. The name was changed in 1985.

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LEGAL ISSUES INVOLVING COMPETITION BY NONPROFITS WITH SMALL BUSINESS

by
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Prepared for
Legal Issues Affecting Philanthropy Session
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Legal Issues Involving Competition by Nonprofits with Small Business

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The purpose of this analysis is to briefly summarize the law issues associated with the matter of allegedly unfair competition between nonprofit and for-profit organizations. These issues are manifold, and range across federal, state, and local law topics, as well as involving constitutional, statutory, and administrative law considerations.

These issues stretch across law areas such as the right of charitable organizations to engage in fund-raising as an act of free speech,[1] the reach of the Internal Revenue Service for revenue by classifying activities as unrelated ones, the determination by governments as to what entities are to be entitled to be recipients of grants and contracts, the inability of businesses to bring lawsuits challenging the tax-exempt status of their nonprofit competitors,[2] the ability to mail using preferential postal rates, and the question as to what if any changes in the federal tax law are warranted in light of the current fee-for-service activities of non-profit organizations.

Almost always, the nonprofit entities are tax-exempt organizations, while the for-profit entities are characterized as "small businesses."

Despite the foregoing range of topics, this matter essentially is one of tax policy. It concerns the ongoing ability of nonprofit organizations to remain exempt from federal, state and local income, sales and property taxes.

Prospective Research on the Topic

The substantive research on the topic of legal issues involving competition by nonprofit organizations has yet to be done. There have been "studies" and articles in the popular media but there is no true research on the point. Instead, the subject is flavored with misconceptions, predispositions, a great amount of emotion and -- the element that will decide much of the evolving law on the subject -- politics.

The specific questions in this context that require answer are laid out in a remarkable press release from the House Committee on Ways and Means issued on September 12, 1986. However, there are some broader research topics and these include (1) an in-depth inquiry into the federal and state law distinctions between for-profit and nonprofit organizations, (2) the rationale for the tax exemption of certain types of nonprofit organizations, and (3) the matter of whether some existing tax exemptions are outmoded and whether some new forms of tax-exempt status are required. An even larger inquiry could explore the role of nonprofit organizations in contemporary society and attempt the judgment as to whether these entities are --as some are asserting-- on the verge of becoming anachronisms.

Referenced next are a host of more specific issues that contemporary developments are forcing toward resolution. These include the efficacy of the unrelated income rules, the matter of the extent of permissible competition between for-profit and nonprofit organizations, the extent to which tax-exempt organizations (particularly charitable ones) can substantially rely on financial support from sources other than contributions, and the appropriate use by nonprofit entities of for-profit subsidiaries and partnerships.

Little comprehensive research is being conducted on this issue. The United States Congress is in the process of forcing the launching of this type of research. The use of this research will be to enable nonprofit organizations to demonstrate that most if not all of the problems in this field can be remedied under existing law and that if new legislation is unavoidable the areas of nonprofit "commerce" that should become the subject of specific legislation. The nonprofit community certainly does not need and must act strenuously to avoid sweeping legislation that precludes all "competitive" activities, and comprehensive and persuasive research is essential to sidestep such an outcome.

Impending Congressional Hearings

As this is being written, hearings are soon expected to commence before at least one committee of the U.S. Congress, examining the activities of tax-exempt organizations that some term "entrepreneurial" or "commercial" or "competitive" and/or "unrelated." This range of inquiry, initiated before the Subcommittee on Oversight of the House Committee on Ways and Means, is expected to review the effectiveness of the unrelated income rules, the charges that tax-exempt organizations are unfairly competing with for-profit organizations, and the utilization by tax-exempt organizations of for-profit subsidiaries and partnerships.

It is probable that the result of this legislative process will be the introduction of many new aspects of the law of tax-exempt organizations, including perhaps some rewriting of the criteria for achieving and maintaining tax-exempt status.

For the most part, the stimulus for this review of the workings of existing law is the assertion that, in some instances, tax-exempt organizations are competing with for-profit entities ("small business") and doing so unfairly.

This aspect of the matter has been aggressively pursued by the U.S. Small Business Administration ("SBA"). In November, 1983, the SBA, through its Office of Advocacy, issued a report, which has been subsequently updated. This analysis[3] concludes that many types of tax-exempt organizations are engaging in commercial activities in competition with the nation's small businesses and that this "phenomenon" is increasing. Institutions cited by the report for engaging in unfair competition include educational institutions, health care providers, nursing homes, and automobile clubs; competitive activities were found to include audio-visual services, analytical testing, consulting, travel services, research, computer services, and the sale of hearing aids. The report singles out "technological services" provided by colleges and universities in the name of research, sales of health products by clinics, sales of excess computer capacity, operation of travel tours, and a variety of studies and services generally denominated "consulting."

The SBA analysis contains a variety of "remedies" to the "problem of unfair competition": (1) outright prohibition in the federal tax laws on unrelated business activities, (2) a higher income tax on unrelated business activities, (3) a more specific federal tax law definition of the term "unrelated trade or business," (4) a percentage limitation on allowable unrelated business activities, (5) repeal of some of the statutory exceptions to the unrelated income rules, and (6) use of tax differentiation factors between nonprofit and for-profit organizations in the cost comparison process followed under the federal procurement law. The SBA analysis concludes that federal policymakers "must undertake a thorough evaluation of the changing role of the nonprofit [organizations] in our society and economy." The report finds that "[a]ppropriate revisions in federal statutes and regulations governing nonprofits are necessary to reflect the existence of the commercial nonprofit sector, and to remedy the unfair competition now imposed on for-profit small businesses."

Following the issuance of this report, a Business Coalition for Fair Competition was formed, which has spearheaded efforts to revise the laws in this regard at both the federal and state levels. At a press conference in 1983, the Coalition unveiled a booklet entitled "Unfair Competition in the States," which offers strategies enabling small businesses to combat "unfair competition" by nonprofit organizations at the state level. This issue was also a prominent one at the 1986 White House Conference on Small Business, where this issue of competition was reflected in the tax law change recommendation that received the most votes from the delegates.

The question of unfair competition between nonprofit and for-profit organizations is a divisive one, even within the independent sector. Some nonprofit organizations are directly challenging the SBA findings.[4] Others agree with it.[5] This role for nonprofit organizations is being openly advocated in some quarters,[6] and is becoming a subject of growing interest in both the popular media[7] and specialized publications.[8]

Concurrently with these developments, the courts have become more disposed to finding activities non-exempt or unrelated functions of tax-exempt organizations -- not through the application of the conventional unrelated income rules but rather because of the conclusion that the activities are "commercial" or are "competitive" with taxpaying organizations. Recent developments reflect this trend, whether it involves the marketing of insurance programs by associations,[9] the selling of advertising,[10] or the publishing activities of allegedly educational or religious organizations.[11] Thus it is that, just about the same time that the doctrines of commerciality and competitiveness in the tax-exempt organizations law context are taking hold in the court opinions, Congress may be embarking upon the process of engrafting these concepts onto the statutory law.

The House Subcommittee on Oversight has been charged with review of the federal tax law treatment of income-producing activities of tax-exempt organizations. According to the above-noted press release announcing the scope of these hearings, this analysis will embrace many forms of tax-exempt organizations, including charitable, educational, religious, and scientific organizations; social welfare organizations; trade and professional associations; labor and agricultural organizations; social clubs; and voluntary employees' beneficiary associations.

This inquiry is expected to review the current application of the unrelated business income rules. However, the examination will range far beyond that subject and into the realms of "commercial" and "entrepreneurial" activities, undertakings that ostensibly are "competitive" with for-profit small businesses, and the use by tax-exempt organizations of partnerships and subsidiaries. Aspects of this review are expected to focus on the underlying rationale for tax-exempt status for many of these nonprofit entities.

To develop a profile of these activities, the Subcommittee will be asking about the various types of income-producing activities now being conducted by tax-exempt organizations, the resulting revenue, the extent of competition between nonprofit and for-profit organizations, the use of joint ventures and partnerships, and any correlation between the use of income-producing activities and federal budget cuts. The Subcommittee, as part of its inquiry into the contemporary efficacy of the unrelated income rules, will explore the relationship between business activities and tax-exempt status, the rationale for tax exemption for various types of income (including that from endowment funds), current criteria for determining unrelated income, and any fostering of unfair competition with taxable businesses.

The Subcommittee will look into whether the IRS has an adequate and balanced enforcement program in this area, the portion of unrelated income that is actually reported to the government, and whether the existing tax forms (annual information return Form 990 and unrelated income tax return Form 990-T) are adequate to identify the relatedness of business activities and satisfy other compliance needs.

Unrelated Income Aspects

All too many believe that this set of issues is essentially a matter of the federal tax treatment of unrelated business income. This is understandable, inasmuch as the unrelated trade or business rules presently in the law were bred as the result of charges of "unfair competition." However, today's allegations of unfair competition are complaints about activities that, under existing law, are related to the tax-exempt organizations' functions. As a result, much of the coming debate will quickly shift the discussion to the matter of overall qualification for tax-exempt status. Congress is ready to revise the law if necessary to accommodate these concerns, as illustrated by the rules enacted as part of the Tax Reform Act of 1986 denying tax-exempt status to certain nonprofit organizations that primarily engage in "commercial-type" insurance activities.[12]

Under existing law, before an activity conducted by a tax-exempt organization can be found to generate taxable income, the activity must be a trade or business[13] that is regularly carried on[14] and that is not substantially related to the organization's tax-exempt purposes.[15] However, despite these general rules, there are an array of statutory exceptions.

Some of these exceptions correlate with the underlying concept of the unrelated income rules, which is that nonprofit organizations should not actively compete with for-profit organizations. Thus, by definition, income that is passively produced by tax-exempt organizations is generally not taxable. So, income of nonprofit organizations such as interest, dividends, rents, annuities, royalties, and capital gain usually is not taxed.[16] Yet questions are being raised as to the appropriateness of this distinction, such as the proper tax treatment of income generated by endowment funds of charitable organizations.

Others of these exceptions have evolved into the federal tax law because of the case made to Congress for their existence. The rationale for these provisions may be revisited. These rules include the exclusions for revenue derived by tax-exempt organizations from research,[17] trade and entertainment shows,[18] bingo games,[19] and the provision of certain health care services.[20]

It is in this area that the core of the legal issues involving competition by nonprofits with small business is to be found. Will emerging law provide more specific definitions of the term "unrelated business"? Will there be overarching rules, such as an equation of "competitive" activities with "unrelated" ones, or will new rules focus on particular activities, such as publishing, consulting, research, or product sales? Will activities now denominated "fund-raising", "cause-related marketing", or "commercial co-venturing" be considered taxable or disqualifying activities? Will specific limitations be placed on the ability of tax-exempt organizations to incur unrelated income? To what extent will the law require the use of for-profit subsidiaries and/or joint ventures? These are speculations -- albeit ones for which the immediate future may hold answers.

Meaning of "Nonprofit"

Consequently, these (and undoubtedly subsequent) hearings are forcing the nonprofit community to reassess the criteria underlying the concepts labeled "nonprofit" and "tax-exempt."

Under existing law, what distinguishes a nonprofit organization from a for-profit organization? Despite common beliefs, it has nothing to do with whether the entity enjoys a "profit" (in the sense of income exceeding outgo). Rather the difference is largely structural: a for-profit entity has owners of equity (such as stock in a corporation) and the net earnings flow to the owners (such as dividends to stockholders), while the nonprofit entity does not have any equity owners and its net earnings may not inure to individuals in their private capacity. The federal tax law concept of tax exemption is built upon the idea of the nonprofit organization (largely a state law matter) but goes beyond it. Thus, generally, not only may there not be private inurement or private benefit emanating from tax-exempt organizations but these entities must affirmatively engage in tax-exempt functions.

Another part of the distinction between nonprofit and for-profit organizations lies, of course, in what it is that nonprofit entities do. But, again, this is where troubles ferment. Nonprofit hospitals say they deliver health care; the proprietary hospitals say they do as well. The same can be said as respects the distinction between nonprofit and for-profit schools, colleges, universities, libraries, theaters, museums, and the like. Many nonprofit organizations work to better the conditions of the impoverished and otherwise insecure. This is not the only definition of what it means to be "charitable," however. The function of many charitable and other tax-exempt organizations today is to enhance the quality of life for a broader aggregation of individuals than solely the destitute -- perhaps to benefit the "general public." Thus, under existing law principles, the meaning of the term "tax-exempt organization" goes beyond betterment of the conditions of the indigent. But how far beyond? Is the rationale for tax exemption going to turn on more than structure? If so, on what terms? Is the basis to be the activities that are performed, or how or why they are performed, or the quality of the performance, or the manner in which the activities are funded, whether or not the activities compete with one or more for-profit functions, a combination of these factors, or some other criteria?

The structural differences between the two types of organizations cannot be overstressed. The intent of the founders of the organization is also important, although that element can change over time. Most likely, the focus will be on what it is that nonprofit organizations do and what it is that differentiates them from for-profit organizations. It is this latter factor that will cause the nonprofit community the greatest stress. For, in many fields, nonprofit entities and for-profit entities do the same thing: provide education, render health care services, engage in research, sponsor seminars, sell products and services, and publish materials. As to this element, then, there cannot be a bright line of demarcation.

Another aspect of differentiation may be in how nonprofit organizations are funded. Those organizations that rely primarily on gifts and grants,[21] for example, are likely to continue to be considered charitable, while other organizations, those that are funded principally with "exempt function revenue" (namely, funds from the sale of products and/or services),[22] are certain to be the target of inquiry.

Then, too, the debate may emphasize factors such as which type of organization operates more "efficiently" and the extent to which consumers have a greater degree of "trust" or "confidence" in nonprofit entities or for-profit entities.

Existing law is relatively explicit about what constitutes unrelated activities. It is the scope of what is "related" activity that is rather murky -- and the source of much of today's unhappiness and confusion over the matter of "unfair competition" between nonprofit and for-profit organizations.

Consequently, this convergence of events is forcing the nonprofit community to explain what it means to be "nonprofit" and "tax-exempt," and why it differs from being "for-profit," and why the present law of tax exemptions, tax deductions, and the like should remain. This includes the willingness to concede that some tax-exempt organizations are violating existing law and that the Internal Revenue Service has not -- for whatever reason -- fully enforced the law. Likewise, if there are abuses of tax-exempt status occurring -- particularly any that cannot be corrected under existing law -- the nonprofit community should be forthright about it. A battle is shaping up, and on the line is the future of the terms in law of "nonprofit" and "tax-exempt" organizations.

[1] *Village of Schaumburg* v. *Citizens For a Better Environment*, 444 U.S. 620 (1980); *Secretary of State of Maryland* v. *Joseph H. Munson Co., Inc.*, 467 U.S. 947 (1984).

[2] *Research Consulting Associates, Inc.* v. *Electric Power Research Institute*, 626 F. Supp. 1330 (D. Mass. 1986); *American Society of Travel Agents* v. *Blumenthal*, 566 F.2d 145 (D.C. Cir. 1977), cert. den. 435 U.S. 947 (1978).

[3] "Unfair Competition by Nonprofit Organizations With Small Business: An Issue for the 1980s," U.S. Small Business Administration (3d ed. June 1984).

[4] E.g., Pires, "Competition Between the Nonprofit and For-Profit Sectors," published by The National Assembly of National Voluntary Health and Social Welfare Organizations, Inc. (Jan. 1985). Also Wellford and Gallagher, "The Myth of Unfair Competition by Nonprofit Organizations," commissioned by Family Service America and The National Assembly of National Voluntary Health and Social Welfare Organizations, Inc. (Oct. 1985).

[5] E.g., Duncan, "Unfair Competition: How Government Gives the Edge to Nonprofits in the Communications Business," published by the National Audio-Visual Association (1983).

[6] E.g., Borof, "Structuring A Nonprofit's Role in Real Estate Syndications," 12 *Grantsmanship Center News* 28 (Spring/Summer 1984); Marlowe, "Profit-Making and Risk-Taking in the Nonprofit Sector," 12 *Grantsmanship Center News* 51 (Sep./Dec. 1984).

[7] E.g., "There's Big Money in the 'Nonprofits,'" Newsweek, Jan. 5, 1987; Schwinn, "Cry of 'Unfair Competition' Evokes Mixed Response," Wash. Post (Washington Business, p. 15), Aug. 25, 1986; Meyers, "The Nonprofits Drop the 'Non,'" N. Y. Times (Business Section, p. 1), Nov. 24, 1985; Cohn and Vobejda, "The Nonprofits Business: Battling the Bottom Line," Wash. Post, Nov. 24-26, 1985, p. A1.

[8] E.g., Copeland and Rudney, "Business Income of Nonprofits and Competitive Advantage," 33 *Tax Notes* 747 (Nov. 24, 1986), 33 *Tax Notes* 1227 (Dec. 29, 1986); Davis, "The Competition Complex," 38 *Assoc. Management* (No. 8) 24 (Aug. 1986).

[9] E.g., *United States* v. *American Bar Endowment*, ___ U.S. ____ (1986).

[10] E.g., *United States v. American College of Physicians*, ___ U.S. ___ (1986).

[11] E.g. *Presbyterian and Reformed Publishing Co. v. Commissioner*, 743 F.2d. 148 (3d Cir. 1984).

[12] Internal Revenue Code of 1986 section ("IRC §") 501(m).

[13] IRC § 513(c).

[14] IRC § 512(a)(1).

[15] IRC § 513(a).

[16] IRC § 512(b)(1)-(5).

[17] IRC § 512(b)(7)-(9).

[18] IRC § 513(d).

[19] IRC § 513(f).

[20] IRC § 513(e).

[21] E.g., organizations described in IRC § 170 (b)(1)(A)(vi) and thus in IRC § 509(a)(1).

[22] E.g., organizations described in IRC § 509 (a)(2).

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WORKING DRAFT

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A COMMUNITY INSTITUTIONAL RESPONSE TO A CRISIS IN SOCIAL SERVICE FUNDING: THE TWIN CITIES CASE

by

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Voluntary Organizations in an Era of Changing Resources Panel
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A COMMUNITY INSTITUTIONAL RESPONSE TO A CRISIS IN SOCIAL SERVICE FUNDING: THE TWIN CITIES CASE

In his first State of the Union address on February 18, 1981 Ronald Reagan announced that:

> The goal of this Administration is to nurture the strength and vitality of the American people by reducing the burdensome, intrusive role of the federal government: by lowering tax rates and cutting spending; and by providing incentives to work, to save and to invest. It is our basic belief that only by reducing the growth of government can we increase the growth of the economy.

So began the famous Reagan revolution. While others including President Carter had recognized that the federal government was spending far beyond its means and was becoming a patsy for special interest groups, this president was determined to change things. The Reagan administration developed a budget based on two principles: 1) everyone except the "truly needy" will be expected to aid or contribute to controlling spending and 2) national defense must be strengthened through increased military spending.

In the first four years of his administration the president indeed was successful in achieving both budgetary goals. Spending for national defense in fiscal year 1980 was $134.0 billion; in fiscal year 1984 it was $180.3 billion (in 1980 dollars). In contrast real spending on education, training, employment, and social services decreased from $31.8 billion in 1980 to $21.9 billion in 1984; real spending on natural resources and the environment decreased from $13.9 billion in 1980 to $10.0 billion in 1984; real spending on energy decreased from $10.2 billion in 1980 to $5.6 billion in 1984; real spending on community and regional development decreased from $11.3 billion in 1980 to $6.1 billion in 1984; and general purpose fiscal assistance (which includes Revenue Sharing) decreased from $8.6 billion in 1980 to $5.4 billion in 1984 (U.S. Bureau of the Census, 1985:306-7). Things were changing; the revolution was under way (see also Weicher, 1986 and Hasenfeld, 1985).

The purpose of this paper is to see how these cuts affected one community, to see how nonprofit organizations and community institutions responded to the funding crisis. According to Salamon and Abramson (1982) the administration expected that the local community would recognize that it now had more responsibility for the welfare of its citizenry and would rise to the occasion. Individuals, corporations, and foundations as well as local governments would contribute both their money and labor to ensure that basic human needs were met. The Administration even argued that in the course of events these actors would come to rediscover the sense of community which increased dependency upon the federal government had come to destroy.

More specifically, we review preliminary findings from a study we did on nonprofit organizations and institutional actors in the

Minneapolis-St. Paul metropolitan area. We examine the response of individual nonprofit organizations, the service providers, as they coped with the cuts in government funding and the increased demand for their services. We also examine the behavior of city, county, and state government agencies and legislative bodies, private foundations, business corporations, churches, citizen action groups, and community fund-raising organizations such as the United Way from 1980 to 1984. Because we are limited in time and space, we will only summarize the results from our research to date. A more thorough analysis is forthcoming in a monograph tentatively titled, *The Private Sector and Fiscal Austerity: A Case Study in How a Community Responded to Government Cutbacks in the Funding of Human Services* by Wolfgang Bielefeld and myself.

Government Cutbacks in the Twin Cities

Because there are so many different federal government funders and federal money can come indirectly to a nonprofit organization or citizen through state, county, and city governments, it is difficult to assess the actual impact of the Reagan revolution on any one city or locale. Often nonprofit organizations themselves do not know where their "government" money ultimately came from. If we look at intergovernmental transfers from federal sources to Minnesota state government, we learn that the state received $1.223 million in 1980. In 1983 Minnesota received $1.175 million from the federal government (in 1980 dollars) (U.S. Bureau of the Census, 1982:228;1986:278). There also was a real decrease in intergovernmental transfers to Minneapolis (from $50.8 million in 1980 to $46.7 million in 1983), although St. Paul experienced a real increase in intergovernemtal transfers (from $36.9 million in 1980 to $50.0 million in 1983)(U.S. Bureau of the Census, 1982:300: 1986:290).

In more substantive terms Peek and Wilson (1983) estimated that for Minnesota the federal cuts proposed for fiscal year 1982 and 1983 would reduce the amount of money available for wastewater treatment construction, weatherization of private homes, energy assistance, highway construction, construction or rehabilitation of low income housing, economic development, communtiy development, handicapped, education, child nurtition, vocational education, employment training, refugee assistance, legal services, medical care for the aged, aid to families with dependent children, and food stamps.

Minnesota though had a bigger problem. Beginning in the summer of 1980 a series of revenue shortfalls left state leaders with the responsibiltiy of finding solutions to a cumulative budget shortfall in excess of $2 billion (Peek and Wilson, 1983:5). Unexpectedly Minnesota which had been immune to the recession in the 70s was hard hit by the recession of 1981-83. With the 1979 and 1980 legislatures making a commitment to tax relief and several new programs, the governor and the legislators found themselves in an embarrassing situation in the early 1980s. In order to balance its budget, which is required by the Minnesota Constitution, the state had to sharply reduce spending in certain areas including education and local government, delay many expenditures, transfer revenue collections, and increase taxes.

Peek and Wilson (1983:20) summarize the cuts that the state made in its spending. Comparing general fund appropriations in the 1979-81 biennium to the 1981-83 biennium they note a real decrease in funding for school aid (22.7%), education/higher education (17.0%), health, welfare and corrections (3.6%), and transportation (40.0%). Perhaps the most visible and controversial cuts were aimed at the poor and sick. Between 1981 and 1983 the state decreased its spending for AFDC benefits and medical assistance resulting in a 20% reduction in the number of families who received AFDC payments and medical assistance coverage. Minnesota's General Assistance case load decreased by more than 10,000 cases or 58.8%. Twenty-eight percent fewer people used mental health services paid for by the state in the winter of 1981-82 compared with the same four-month period the previous year. At the same time, unemployment in the state was inching upwards from 5.5% in 1981 to 7.8% and 8.2% in 1982 and 1983 respectively.

Relief finally came in 1983 with the resignation of the Republican governor, the election of a Democratic governor, and the implementation of a ten-percent surtax. Also the end to the recession provided needed relief with unemployment dropping to 6.3% in 1984 and 6.0% in 1985.

Organizational Responses to Government Cutbacks

This section of the paper examines the response of individual nonprofit organizations to the cutbacks in governemtal funding described above. We first review the methodology we used and then some of the research results. The material is taken primarily from Galaskiewicz and Bielefeld (1986).

The data for this section are part of a larger study of philanthropic behavior started in 1980 (see Galaskiewicz, 1985 for details). Our goal was to interview a panel of not-for-profit organizations - specifically public charities - at two points in time. Because of limited resources we focused only on nonprofits in a single metropolitan area - the Twin Cities. Our sampling frame was developed from the Cumulative List of Organizations (1979) published by the Internal Revenue Service. The document we used was current for October 31, 1979. One of our staff went through the document and identified all the public charities headquartered in the Twin Cities five-county metropolitan area. There were 1,601 organizations altogether. Our next task was to group these organizations into industries (e.g., health/welfare, education, legal, housing/urban development, mass media, recreational, cultural, civic, environmental, and miscellaneous). After all the organizations had been stratified, we drew a one-in-five (20%) systematic sample. The target number of interivews was 326. Of these, we interviewed 229 organizations in 1981. Of the remainder, 42 organizations could not be located; 18 were known to be defunct; 22 were only "paper" organizations (e.g., tgrusts); and 15 organizations refused to participate in the study.

We returned to the field in 1985 to reinterview the 229 nonprofits that we first interviewed in 1981-82. Our goal was to gather additional data that would enable us to evaluate changes in the funding patterns of our nonprofits and to uncover subtle and not-so-subtle changes in the organizations themselves. All data were current for 1984. Of the 229 organizations first interivewed in 1980, we successfully reinterviewed 201. In the interim 22 went out of business, 2 became for-profit firms; 1 became a public agency; and 3 refused to give us a second interview.

The main methodological problem was to get a reasonable measure of governmental funding. There were two complications: first, as noted above, it is extremely difficult to identify the ultimate source of public funding; and, second, government money can come to nonprofits in the form of a grant, contract, or voucher payment (e.g., Medicare or Medicaid). To simplify matters, we decided to ask the nonprofit administrator to tell us the amount of money received from federal, state, county, and city governments and agencies in toto. However, we counted only government grants or contracts and ignored voucher or insurance payments for the time being. We justified this on the grounds that the latter are spent by the consumer and thus should be treated as program service revenue rather than an interorganizational transfer.

1. Results

Table 1 assigns each nonprofit organization to one of ten industry categories. Nonprofits are then divided into three groups: those which experienced a real absolute increase in governmental support, those which experienced a real absolute decrease in governmental support, and those that never received any governmental support. The entries in the cells are simple frequencies. In short, the mass media, legal services, housing/urban development, and environmental groups all experienced a decrease in government funding. Educational and cultural organizations were more likely to lose govenment funding than to gain it. Health and welfare organizations and recreational organizations were as likely to gain as to lose governmental funding. Only civic organizations experienced increases in government funding and no losses. These findings are not surprising and are corroborated by an independent study of the Twin Cities nonprofit sector by the Urban Institute (Lukermann et al, 1985; Marczak et al, 1985).

In Table 2 we again divide organizations into three categories. Here we can see if organizations which lost government funding shrunk or grew, increased or decreased their support from individuals, foundations and corporations, increased or decreased their program service revenue, and increased or decreased their volunteers, full-time employees, and part-time employees.

Average operating expenditures in 1984 for those losing government funding were only 15.4% greater than operating expenditures in 1980.

In contrast, the operating expenditures in 1984 for those gaining government funding were 44.9% greater than in 1980. Average operating expenditures increased only 11.6% for organizations that never had government funding. Apparently organizations which survived the four years all grew in real terms. However, organizations which lost their government support grew much less than nonprofits which increased their governmental funding.

Every type of nonprofit experienced a real increase in individual giving. However, giving was not targeted on those organizations that lost governmental support. Organizations that lost government funds received, on average, $12,844 more in individual contributions in 1984, while nonprofits which received greater government support received, on average, $16,508 more in contributions in 1984. The average increase among organizations without funding at either time was only $633.

Corporations tended to be more supportive of nonprofits which lost public support over this period. These organizations received, on average, $52,711 more in corporate donations in 1984. Nonprofits which received more government support received, on average, $38,108 more from corporations in 1984. However, corporate contributions to the former represented only a 78.7% increase over 1980 levels; while corporate contributions to the latter represented a 166.7% increase over 1980 levels.

The level of foundation support for both nonprofits which lost governnment funding and those that never had governmental support actually decreased over the four year period. In contrast, foundation support increased substantially to those organizations that increased their public support.

Another source of funding is program service revenue. Organizations which lost government funding actually took in less, on average, in program service revenue in 1984 than in 1980. In contrast, those receiving more government funding in 1984 had, on average, greater program service revenue/sale of services in 1984 than in 1980. A similar pattern is found for organizations which received no government support in either year.

All three types of nonprofits increased the number of volunteers over the four year period. However, the increase was substantially less for those organizations that lost government support (on average only 42 more volunteers). Those that received more in government revenues had, on average, 139 more volunteers. Those that never had government support had, on average, only 7 more volunteers in 1984. The number of full-time and part-time employees decreased by 52.8% and 54.4% respectively among organizations that lost government funding. This compares to an increase of 52.5% in full-time employees among those that increased their public dollars and a slight loss in part-time employees (12.5%).

2. Conclusions

These data suggest that, first, it does not appear that individual and foundation donors rushed in and replaced the funding which was lost due to cutbacks in governmental support. Corporate support did increase to these nonprofits, but not proportionately. Second, it does not appear that nonprofits which lost governmental support replaced these funds with program service revenues or revenues from sale of unrelated services. Third, it does not appear that nonprofits which lost government funding were especially successful or interested in recruiting volunteers; it appears that nonprofits which lost government support trimmed back on their operations and laid off full-time and part-time staff.

To corroborate this interpretation we can turn to other data that we collected in 1984 from these organizations on the different strategies which they employed during the four-year period (see Galaskiewicz, 1986 for details). In essence, we found that those which lost government funding were most likely to pursue the following strategies: "Reduced staff training," "Reduced service levels to those served," "Instituted salary freezes," "Reduced service delivery staff," "Reduced staff benefits," and "Eliminated specific services and programs." In contrast, those which experienced an increase in governmental support were most likely to pursue these strategies: "Adapted services to priorities of local funders," "Sought endorsements from prominent people," "Gave contributions to other nonprofits," "Started management program to increase efficiency," and "Approached a new funder type for money."

Thus it appears that organizations which lost government funding did indeed retrench. They did not engage in out-reach efforts to increase their funding and thus we should not be surprised that individual, corporate, and foundation donors did not direct contributions their way. But neither did they "milk" their clients to make up for the cuts. Instead it appears that they took the knife to themselves and pared staff and programs.

Institutional Response to the Funding Cutbacks

In our study of the institutional response to the funding crisis we wanted to gather as much qualitative data as we could on the actions of government agencies, foundations, corporations, foundations, voluntary or civic associations, churches, and the United Way. We wanted to learn about the various commissions, task forces, study groups, special reports, and projects which these institutional actors sponsored and participated in. This would tell us the sorts of strategies which the community pursued to offset the cutbacks in both federal and state funding.

Our methodological strategy was twofold. First, we wanted to document all the events in the Twin Cities between 1980 and 1984 that were even remotely related to health and human services. For this we did a thorough search of the local metropolitan press. We examined newspaper indexes for the Minneapolis Star and Tribune and the St. Paul Pioneer Press and Dispatch. Once we identified an article that we thought relevant we went to the issue and copied it. We copied roughly 200 articles.

A second strategy was to interview 33 informants who were either identified in the articles as personally involved in various efforts to cope with the funding cutbacks or who belonged to organizations which were involved in responding to the cuts. The principal investigator personally conducted face-to-face interviews with each of these informants. Since the role of informants differed, the interviews were tailored to the involvement of particular individuals or organizations.

It is impossible to present the details of the institutional response in the space that is provided here. For a detailed account, see Galaskiewicz (1986). Instead we will present some preliminary findings.

1. Efforts to Meet "People" Rather than "Organizational" Needs

Institutional actors were convinced that people and not nonprofit service providers were hurt most by the events in the period between 1980 and 1984. Cuts in GA, AFDC, and high unemployment were perceived as the most pressing problems. Thus it made sense to them to create special programs that would serve people rather than organizations.

The most visible programs provided food for the needy. In 1982 the Minneapolis Foundation convened the Donated Food Action Committee to discuss emergency food distribution in the area. There was already a food distribution network which involved local churches that provided food to foodshelves housed in neighborhood agencies, and it was clear that this operation needed to be expanded. In cooperation with the Minnesota Council of Churches, Pillsbury, General Mills, and other firms two new organizations were formed. Minnesota Foodshare was a network that recruited food products through the churches and from corporate inventories, and Minnesota Food Bank was a warehouse from which food was distributed to the foodshelves. Later the Catholic Archdiocese and the Jewish Federation joined the coalition, and grants were secured from several donors in the community. In 1982 it was estimated that one out of five Minnesotans used the foodshelves regularly drawing on seven food banks across the state.

There was also an effort to provide money directly to individuals who were in special need. The program at the Minneapolis Foundation was called the Minneapolis Equal Opportunity Fund (MEOF), and the program at the St. Paul Foundation was called the Community Sharing Fund (CSF). Both programs were in place prior to the crisis, and in 1981 and 1982 each had a budget of only about $100,000. The MEOF considered requests only for housing emergencies, e.g., to prevent evictions and forclosures and was administered through five local community organizations. The CSF was more broad-gauged and was administered by the foundation's staff.

The mayors of Minneapolis and St. Paul and the McKnight Foundation collaborated on a project to address the problem of unemployment. In 1982 they announced that the foundation would provide $2 million in work relief that would provide 400 temporary jobs in Minneapolis and St. Paul City governments. It was aimed at people who were unemployed but did not quality for welfare or unemployment benefits. It later became the model for the 1983 jobs program passed by the state legislature. The Minneapolis mayor also organized a jobs program in conjunction with several local corporations. In 1982 the Minneapolis Community-Business Employment Association was created with the mandate for companies to find employment opportunities in Minneapolis neighborhoods for those who were without a job.

If donors funded nonprofits, it was not because they lost government funding per se (although the Minneapolis United Way did this), but rather because many were swamped by clients who needed emergency services. For example, in 1981 the Minneapolis United Way created a Contingency Fund to provide support to nonprofits that provided emergency relief. In late 1982 it ranked emergency needs programs at the top of its priority list, and between 1982 and 1984 the agency went from allocating 3% of its funds to organizations which provided emergency food, clothing and shelter to 15%. Furthermore, the Minneapolis Foundation had a program, the Emergency Needs Project, which funnelled money to agencies that provided transitional housing programs. The St. Paul Foundation's program, the Emergency Care Fund, provided money to agencies what had experienced an increased demand for their services with an emphasis on emergency needs.

2. No Bail-Out for the President

Private sector funders insisted over and over again that they did not "bail out" the President and his programs. The private sector responded to the conditions that people faced at the state and local level. The recession and the effects that it had on state revenues and unemployment were the villain. Their actions had nothing to do with what was happening in Washington. Furthermore, they saw their support of emergency needs projects as temporary with government once again assuming major responsibility for the poor, hungry, and homeless once the crisis had passed.

To illustrate, the McKnight Foundation worked closely with the mayors of Minneapolis and St. Paul to build low income housing and provide temporary employment in city government with CETA type jobs. However, the foundation categorically denied that this had anything to do with Reagan or that it was replacing CETA funds. The housing was built because in 1980 when the project began interest rates were about 14%-15% and many families could not afford their own home. In fact, much of the success of this project which had built 5,000 new homes for low and moderate income families by 1986 was due to the availability of UDAG money not to the shortage of funds.

Although directly involved in emergency services, the community foundations told us flat out that their basic philosophy was that government, not the foundations, should be providing basic human services such as food, clothing, shelter. The philanthropic community did not see itself as permanently supporting church basement shelters. It assumed responsibility for emergency needs but made it clear to the county commissioners that they were expected to lead the lobby for restoration in cuts in General Assistance. Emergency needs were not going to become part of the foundations' mission.

Business firms reacted in a similar way. Between 1982 and 1984 the Minnesota Council on Foundations reported that contributions from the largest Minnesota corporations increased from $63.3 million to $81.4 million. In interviews with the two largest corporate donors we were told unequivocally that their contributions were not in response to Reagan's programs. Both saw the increase as part of their own long-term strategy of pursuing their "enlightened self-interest". At no time did they target their gifts to nonprofits that lost government funding. One corporate representative explained why firms were reluctant to "pick up the slack" caused by cuts in government funding. He said that companies would ask "...why should we fund those organizations that aren't important enough to be priorities for government. We are just getting the cast-offs and we have got to focus on the things that are important. We don't want to give up our independence, we don't want to become a government substitute."

3. Conclusions

In sum, institutional actors in the Twin Cities saw the funding crisis which nonprofits faced in the early 1980s as due to a special set of circumstances, e.g., a nasty recession, inepitutde on the part of state government, and a unsympathetic ear in Washington. Therefore, the response was short-term and crisis oriented, and in the end there were no fundamental changes in institutional responsibilities and arrangements.

In fiscal year 1986 Ramsey and Hennepin counties were contracting for services with NPOs at levels (in real dollars) comparable to 1980. General assistance and medicaid support have been restored and government is again principally responsibility for income transfers to the poor and sick. Foodshelves are still in place, but by 1986 far fewer Minnesotans relied on them and the elaborate network which existed among corporations, churches, and agencies laid dormant.

Concluding Remarks

This paper summarizes only a few of the findings from our research on the organizational and institutional response to the funding crisis of 1981-1983. Unfortunately, our time and space are limited, and we had to ignore a number of issues. For example, we need to pay more attention to the ways that nonprofits cut their staff. Did they dismiss professional staff or clerical help? Were these dismissals all due to cutbacks in government funding or were there technological changes that enabled organizations to economize on personnel? Did the goals of these organizations change over time due to the cutbacks? If not, why didn't they adapt to new conditions? Which programs were eliminated? Which population subgroups were hurt the most? Was it the poor or was it the middle class whose programs were cut? How involved did nonprofits get in the political process? Did they try to influence public opinion or the attitudes of legislators?

Furthermore, who provided the leadership in responding to emergency needs? What role did advocacy play and who orchestrated the political lobby? Were any other sectors affected by the funding crisis? What was happening in higher education, the arts, health care, housing, legal services, and among environmental groups? What role did peak associations in responding to the crisis? What role did citizen action groups like the Urban Coalition play in responding to the cutbacks? What else did corporations do to respond to the demands that they bail out the president? All these questions need answers, and we hope to address each of them in our future work.

Table 1.--Decrease/Increase in Government Funding (1980 dollars) by Industry (N=201)

	Decrease/Increase in Government Funding between 1980 and 1984		
Industry Code	Decrease	Increase	Never Funded
Recreation	1	1	12
Mass Media	2	0	0
Legal Services	2	0	2
Housing/Urban Development	3	0	2
Health/Welfare	23	25	40
Environmental	2	0	1
Education	6	3	17
Cultural	12	6	11
Civic	0	3	3
Miscellaneous	1	0	5
Total	52	38	93
Missing cases			18

Table 2.--Average Income from Individual Contributions, Foundation Grants, Corporate Grants and Sale of Services and Average Number of Volunteers, Full-Time Employees, and Part-Time Employees for 1980 and 1984 by Decrease/Increase in Government Funding (1980 dollars) (N=201)

Averages	Decrease in Gov't Funding (N=52)	Increase in Gov't Funding (N=38)	Never Funded (N=93)
Expenditures			
1980	$2,824,510 (N=52)	$1,048,089 (N=38)	$67,003 (N=88)
1984	3,261,003 (N=51)	1,518,259 (N=38)	74,742 (N=91)
Individual Gifts			
1980	$ 53,448 (N=52)	$ 21,710 (N=38)	$ 3,853 (N=88)
1984	66,292 (N=52)	38,218 (N=38)	4,486 (N=92)
Foundation Grants			
1980	$ 124,677 (N=52)	$ 38,068 (N=38)	$ 5,715 (N=93)
1984	57,941 (N=52)	122,224 (N=38)	2,785 (N=93)
Corporate Grants			
1980	$ 66,948 (N=52)	$ 22,863 (N=38)	$ 3,425 (N=93)
1984	119,659 (N=52)	60,971 (N=38)	1,622 (N=93)
Program Revenue & Unrelated Services			
1980	$2,539,022 (N=36)	$ 250,424 (N=29)	$13,738 (N=69)
1984	2,289,717 (N=43)	340,141 (N=34)	17,989 (N=85)
Number of Volunteers			
1980	131 (N=49)	158 (N=37)	78 (N=83)
1984	173 (N=49)	297 (N=37)	85 (N=92)
Number of Full-Time Employees			
1980	112 (N=51)	40 (N=37)	2 (N=90)
1984	54 (N=52)	61 (N=38)	3 (N=93)
Number of Part-Time Employees			
1980	33 (N=50)	24 (N=38)	3 (N=90)
1984	18 (N=52)	21 (N=37)	2 (N=93)

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WORKING DRAFT

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AN INFORMATION SYSTEM FOR PUBLIC-PRIVATE DECISION-MAKING

by
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Voluntary Organizations in an Era of Changing Resources
Panel

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An Information System for Public-Private Decision-Making

A. BACKGROUND

The initial mandate for Project Flagship came in late 1982 from the United Way of America's Board-level Government Relations Subcommittee. The original goal for the project was to develop an information system to measure the impact of changes in public and private support on United Way supported agencies, their services, and the people using these services on a nation-wide basis. To meet this goal the Project set forth to gather and make accessible objective, standardized data to assist both local policy-makers and service providers in making more informed decisions affecting human services. The Project is not meant to stand alone; rather it is designed to lend support to other United Way/human service functions including community problem-solving; fund distribuion; needs assessments and priority settings; campaign case development; program development; and marketing.

Eleven communities--ATLANTA, BALTIMORE, BUFFALO, CHATTANOOGA, CLEVELAND, DETROIT, INDIANAPOLIS, PRVIDENCE, SAN ANTONIO, SAN FRANCISCO and SEATTLE--were selected as the original test sites. Cities were chosen based on 1) willingness and ability to participate; 2) socio-economic composition; and 3) region of country. Since the inception of the Project an additional thirteen communities have joined providing Flagship with access to information on over 2200 human care agencies whose combined budgets total over $2.5 billion--about one-quarter of all human service providers' budgets tracked annually by the United Way of America Research Division. [1] (See Appendix A for a complete list of Flagship participants.)

With the support from the Exxon Corporation, the IBM Corporation, the Department of Health and Human Services and the eleven core test-sites, Flagship is now regularly gathering standardized agency and program data and maintaining the information on microcomputers. Flagship has developed the requisite software to assist data-users to quickly and easily enter and access the information themselves. In short, the United Way of America and participating United Ways have made significant progress towards developing an integrated system of gathering and managing relevant, timely information using an ongoing database of social service agencies' financial and service information across the country.

B. STATEMENT OF THE PROBLEM

An information exchange such as this is vital for United Ways to carry out their stated missions efficiently and effectively. With the anticipation of continued cuts in government support to social service programs, communities can no longer afford to allocate monies or provide program services in an information vacuum. Human service fundors, including United Ways, must know what other fundors are doing so as to best allocate their dollars. Private corporations and foundations similarly require information on the extent to which community services receive (or do not receive) monies from other funding sources in leveraging their own grants or matching programs. Agencies themselves must have a better understanding of other program services within the community to fully anticipate met and unmet needs. Yet, too often existing information on the human services (however dated or limited in scope or detail) is scattered in various locations with no single repository or data directory. People cannot use what they don't know about or cannot find. What is available is often on the wrong medium or not readily accessible to users when they need it (United Way of America, 1984).

This dilemma is replicated at the state, regional and national levels. Few agencies' national offices have the requisite research or data processing capacity to process large volumes of local performance data and quickly distribute standardized reports to its constituencies. Response time to local requests for specially tailored analysis is similarly long. Furthermore, there is little incentive for sharing information with related service agencies. This resistence to sharing is further compounded by a lack of uniform service classifications or taxonomies.

State, regional and federal funding arms similarly have had chronic difficulties in monitoring and comparing social service expenditures--and this task has been further complicated by state and local subcontracting with non-profit agencies. Finally, the lack of a viable "inter-sector" communications and information network inhibits the chances of human service managers participating in collaborative efforts and sharing new ideas and innovative approaches--or, for that matter, fundors taking joint risks in supporting new and necessary program services (United Way of America, 1984).

C. ISSUES IN METHODOLOGY

Representatives from each of the core participating local United Ways met regularly at the outset to decide upon: 1) the project goals and objectives (see Appendix B for the original stated objectives); 2) major constituents of the information system at both the local and national levels; 3) key issues which must be addressed by the information system; and 4) standard data elements which could best meet the overall information needs of the users. [2]

Keeping in mind the Project's overall objectives, the City Coordinators from the core communities specified the following standards for Project Flagship.

* Data are to be gathered from all United Way participating agencies on an annual basis;

* Data are gathered at both the agency and the program levels using the United Way of America Service Identification System (UWASIS) as the coding strategy;

* Agency financial information is based on previous year's actuals, rather than bgeted data;

* Revenue and expense line items are defined by the United Way Chart of Accounts;

* Government dollars are to be broken out by funding source; Federal programs are defined by the Federal Domestic Catalog of Assistance.

* The Project will gather detailed break-outs of foundation grants;

* Client characteristics are defined by Census categories, including age, gender, race, ethnicity and household income.

D. SCOPE OF PROJECT

Since its inception, Flagship has modified its scope to some extent. In particular, the Project has placed a greater emphasis on developing the local research capacity of participating United Ways while keeping intact its original objective of developing a nation-wide database on human service performance. For example, communities join Flagship through the New Cities Program in which they receive instruction in data collection techniques and considerable "hands-on" training in computer applications. Project staff offer technical assistance to participants whenever necessary; local staff are also encouraged to contact staff from other participating communities to learn from others' experiences in implementing Flagship at the local level. In addition to the New Cities Program, Flagship has spawned the following ancillary programs:

Flagship II: Testing the development of a community-wide database surrounding a locally determined issue or problem. Test sites are: Seattle (child abuse); Atlanta (teenage pregnancy); Des Moines (day care); Little Rock (aging).

Flagship Network: Making Flagship data from all participating communities accessible through the United Way of America's Human Care Network (HCN).

Community-wide Networks: Flagship is working with several communities (Chattanooga; Detroit; Little Rock) to develop workable strategies enabling both participating and non-participating agencies to submit Flagship data electronically to the local United Way.

Agency Training Program (currently under development): A primary objective of Flagship is to share lessons learned in data collection and automation with other non-profits (especially participating agencies) through training workshops and actual software development. In part to meet this stated objective Flagship sponsored with the United Way of King County and the Region X Office of Human Development Services, Dept. of Health and Human Services a Human Services Microcomputer Conference held in Seattle, November, 1985.

E. PROJECT OUTCOMES

While there are various programs that comprise Flagship, no one program can stand alone. Nor is any one program by itself particularly unique. Rather, it is the synergy of these various programs and concomitant processes combined which make Flagship what it is, and more importantly, which make it work. The outcomes of the Project to date are discussed below.

Impact of Flagship on Local United Way Systems

Changes in Fund Distribution Strategies: Historically, United Ways in large part allocated monies to agencies in a form of deficit funding. That is, during the local citizen review process volunteers distribute available United Way dollars to agencies based on the level of support necessary to "gap" total projected expenses and projected income (United Way of America, 1983b). In this instance United Ways need not gather program-level data from member agencies. However, as Flagship requires program-level detail, many of the participating United Ways are faced with restructuring their entire data-gathering efforts. In several instances this shift in data gathering efforts has contributed to (Pittsburgh, PA) or complemented (St. Paul, MN) a system-wide change towards program-based fund distribution and priorities setting.

Changes in Local Information Gathering: As participants in Flagship, most United Ways have found it necessary to modify existing agency forms in order to meet specified standards. As a result, many of these United Ways have also found it necessary to scrutinize existing internal information systems. In this process, some cities have found that the data obtained from participating agencies were often incomplete and when available, of marginal utility (Arrington, 1985). With this information being used more for decision-making purposes, United Way staff are increasingly following through to determine their validity. This process of validation usually results in local United Way staff going directly to the source of information (agencies) to find out about any inconsistencies they may find in the data. In addition to `cleaner´ data, a hidden benefit to Flagship is that agencies are better able to inform United Way staff about specific problems they are having in gathering the requisite Flagship data (e.g. tracking clients; tracking source of government funding) so that the United Ways can assist in overcoming them. [3]

Automation of Agency Data: Flagship has had a major impact on many participating United Ways through the automation of their agency budget and client information. Until recently, most United Ways had little or no computer capacity. Those United Ways that did utilize computers tended to first automate campaign and internal financial data. Data used for planning and fund distribution purposes tended to remain on hardcopy form, thereby precluding the possibility of detailed analysis (United Way of America, 1984). In developing software for use on IBM PC-XT and compatible microcomputers, Flagship has enabled participating United Ways to do simple procedures (such as math checks or basic allocations reports) quickly and accurately. Having the capacity to organize and maintain large amounts of data has given local United Way staff the freedom to do more detailed and more thought provoking analyses with the information. In this manner United Ways can now meet the growing expectations of volunteers who have come to demand specialized reports upon which to base their decisions (Arrington, 1985; Bell, 1985).

Supporting an End-User Environment: Moreover, basing the Project on micro-computers instead of mini-or mainframe computers has put the information directly in the hands of the staff and volunteers. As such, persons making key decisions regarding local planning and distribution of funds now have access to the information they want when they need it. Users can generate reports in the format of their own choosing; they are not dependent on an MIS division to interprete their information needs and generate reports as time permits.

In short, with the training and tools provided by Project Flagship, local United Ways now are able to generate meaningful reports which address a multitude of issues. Some examples of local uses of Flagship information are provided below.

Creative Data Uses: Local Examples

An analysis of overall changes in public/private sector funding patterns among United Way-supported agencies in Indianapolis shows that total agency revenues rose 7.4% in constant 1982 dollars between 1982 and 1985 (Figure 1). [4] While most of the increase is due to a real increase in government dollars, overall, agencies remain dependent on private sector funding sources. So, for these agencies at least, a better understanding of private funding patterns in addition to changes in government spending patterns is critical.

Figure 2 offers a view of United Way dollars within the context of all other major sources of revenues for agencies in Indianapolis. Thus, the United Way has a ready way of noting the extent to which it can leverage its own dollars against all other dollars. The United Way can also document that while government dollars appear to be on the rise for these agencies, support from private contributions has decreased significantly during the past four years. Further analysis (see Figure 3) shows in greater detail which sources of private support have declined and to what extent. Contributions from individuals, corporations and foundations and especially legacies and bequests are down; seemingly, agencies have countered by increasing their revenues from membership dues and program service fees and by expanded efforts in the area of special events. An agency by agency report (not shown here due to reasons of confidentiality) shows specific trends in agency sources of revenues.

Like Indianapolis, Providence data indicate that, overall, government dollars continue to rise. However, such a broad generalization masks the fact that increasing government dollars in certain programs hide cuts in other programs areas. Providence, for example, found that monies from the Dept. of Health and Human Services to their member agencies increased from $7 million to $12 million (in actual not constant dollars) between 1981 and 1984. A closer analysis provided through Flagship shows that much of this dollar increase is due to increases in Medicare and Medicaid; other federal programs have in fact evidenced severe cutbacks (Figures 4 and 5).

Baltimore, in turn, was able to utilize information gathered for Flagship to determine which programs funded by the United Way were most at risk of government cutbacks (Figure 6). In identifying home health care as receiving most government monies, they could do a more in-depth analysis to determine the extent to which these program revenues came from the federal, state and local governments (Figure 7). A break-out of the funding portfolio for home health also indicates that the United Way would not be in a position to leverage its own dollars to compensate for any significant losses in government funding in this instance (Ghinger, 1986).

Integrating United Way Information at the Community Level

Sharing of Information: The above examples of creative data applications highlight ways in which a local United Way can access Flagship information to enhance its own internal functions (such as in overall planning capacity and distributing of United Ways dollars) based on a better understanding of what is happening in their community. With the ability to quickly and easily generate reports, United Ways can also help the agencies themselves to make more informed decisions affecting program services by giving back to the agencies their own information in the form of useable reports.

For example, Flagship enabled United Way staff in South Bend, Indiana to track government funding streams for a given agency in order to determine the potential impact of possible cutbacks (in this instance a 19.9% cut in Title XX monies across the board) on the agency's programs (Figures 8 and 9). Using these data in conjunction with client income, the United Way was able to document that, by and large, its client base would not be in a position to compensate for any cutbacks through increased program service fees (Figure 10) (Humphreys, 1986).

Finally, through its participation in Flagship, the Planning Council in Chattanooga was able to generate an analysis on United Way-supported day care centers, providing these agencies with a detailed profile of who is currently being served by local day care agencies (Figures 11 and 12). In this manner both the Planning Council and the agencies themselves are in a better position to determine met (and unmet) needs within their community.

Developing Community-Wide Databases on Human Services

While the primary emphasis for Flagship communities is on gathering information on United Way supported agencies, more and more United Ways are using Flagship as a tool to develop local community-wide databases on human services. As a result of a local needs assessment process, for example, the Planning Council in Chattanooga was charged with setting up an information base including both public and private human service agencies. With few modifications, the Flagship structure was chosen as the most feasible way to undertake this task --in part because the structure was already being utilized by a significant portion of local service providers. In Des Moines, Iowa representatives from the City, County and United Way are looking into the feasibility of using the same agency budget forms so that they could incorporate public agencies into a common information bank based on Flagship standards. Similarly, the United Way in Little Rock, Arkansas is working with the local Area Agency on Aging towards developing a community-wide database on aging using the Flagship format.

In sum, while the development of community-wide databases is currently being tested in only a few communities, we are finding that many communities are interested in joining Flagship precisely for this purpose. In fact, in several cases United Ways are looking to Flagship as the base for setting up state- and area-wide databases on human service performance.

Developing a Nation-wide Database on Human Service Performance

As mentioned, the original mandate for Project Flagship was to develop an information system that could track the impact on changes in public and private funding on the entire United Way system. To do this necessitated developing standards in information gathering which involved related but independent organizations geographically distant from one another. It also meant, that in order to be truly effective, Flagship must incorporate a viable sample of communities across the country over time.

It is the goal of Flagship to incorporate the top 100 markets over the next three years. Proliferation of area-wide and state-wide arrangements will not only help the Project meet this goal, it will also enable the project to target some of the smaller communities which would not otherwise have the staff and financial resources to participate.

Flagship Network: The Flagship Bulletin Board is now available to all users of the United Way of America's Human Care Network (HCN). The Flagship Bulletin Board is that portion of the Flagship network that makes the multi-community database on agency financial and staff/client data accessible to everyone, not just Flagship participants. This accomplishment addresses one of the major cornerstone objectives of Flagship: To share project findings with other local United Ways, national agencies, and select corporate and legislative constituencies. An interactive network, enabling participating Flagship communities to access and manipulate the entire Flagship database, is scheduled for completion late Spring, 1987.

The concept of a nation-wide database works only because Flagship as an information system works at the local level. It would not be feasible to require standardized information from United Ways for a nation-wide database unless United Ways can also utilize the information for their own local reporting needs. In meeting this latter agenda, however, it is relatively simple for participating United Ways to share the information with the Project once it is gathered. In return, United Ways can for the first time compare their agency data with similar information from other communities using their own locally-based research tools (e.g. IBM PC XT, Human Care Network ID; modem and Flagship software). As such, they no longer need depend on United Way of

America to generate ad-hoc reports or to conduct cross-community comparisons.

While the Flagship bulletin board does not yet reflect the full range of data required by the Project, [5] it does enable users to access detailed information on financial data for select agencies aggregated by Metro size (based on size of campaign); Census region; community clusters; [6] and by program. The sample size at this point remains rather small; a total of 12 communities submitted useable 1984 financial data. Even so, communities can begin to use these data in a variety of ways. For example, they might use the Flagship Network to compare their service portfolio with other United Ways with similiar socio-economic composition. Or, as shown in Figure 13, local United Ways can compare differences in sources of revenues for select agencies across communities.

In addition to helping the local United Way look outward to other communities as a source of information, the Flagship Network is available to other United Way constituencies for use in conducting analyses on the human services on a nation-wide basis. They can, for example, perform aggregate analyses such as shown in Table 1 (percent of program dollars funded by government sources for 18 Agencies for the Aging in six cities). Users can also take the Flagship database and juxtapose it with other available databases. In another example, Figure 14 shows the per capita government and public support dollars for population 65 and over to participating agencies for the aging in six Flagship communities. [7] An analysis of this type might pique the interest of some of these communities to determine how agencies in other cities are maximizing available public and private dollars.

In short, while the data on the Flagship Network are limited at this point in time, they still provide users with a detailed source of information not readily found any where else. Over time, this limitation will lessen as more communities begin to meet its standards.

E. FUTURE DIRECTIONS

As mentioned, it is a primary goal of Flagship to bring on all major communities across the country. In addition, Flagship has earmarked other programs which it intends to pursue in its effort to develop workable information systems at the local level. These new programs include:

Integrating Local Sources of Information: While Flagship as it stands now primarily incorporates agency financial and staff/client information, it is the intention of the Project to develop other software "modules" enabling local United Ways to electronically link Flagship data with data from other existing sources of locally-based information, including Information and

Referral programs, beneficiary data, Census data and vital statistics, and needs assessments.

Developing Agency-Level Software: Flagship is also scheduled to develop an automated client-tracking system for use by participating agencies which will allow agencies to send United Ways requisite client data electronically. Not only would this software enable agencies to better track their own clients internally, but it would facilitate reporting client information required by Flagship to the local United Way.

In sum, the development of a nation-wide, comprehensive public/private database accessible to all affected parties is more than just a demonstration project. It represents a qualitative shift in a community's ability to isolate its more pressing issues and to bring to bear the requisite resources to address them. As such, this project will have resulted in a redefinition of standards by which community and national policy-makers can and must base their decisions.

Notes

[1] Project Flagship is under the aegis of the Research Division, United Way of America.

[2] Representatives (refered to as City Coordinators) from local participating United Ways continue to meet annually to ensure local input as to the development and future direction of the Project.

[3] To the extent possible, it it the objective of Project Flagship to develop strategies to help local United Ways work with the agencies in overcoming these technical difficulties through its Agency Training Program.

[4] Analysis is based on 47 matched agencies funded by the United Way of Greater Indianapolis between 1982 and 1985.

[5] Where participating United Ways must change their agency budget forms, there is a predicatable lag until the agencies themselves alter their own data-gathering techniques. As a result, it may take one or more years before these communities can provide Flagship with the requisite information for use on the Network.

[6] Community clusters enables users to compare Flagship information across "like" communities having similar economic and demographic environments. For further information on the concept of "clusters" contact the United Way of America Research Division.

[7] The population figures used in this analysis are derived from United Way "solicitation areas" which may not directly correspond to agency service areas.

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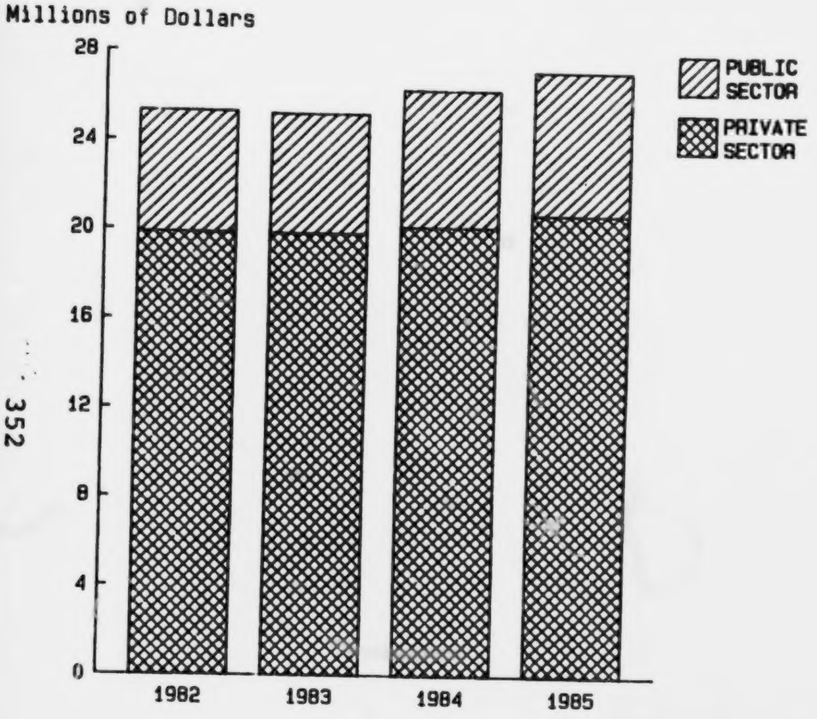
Figure 1

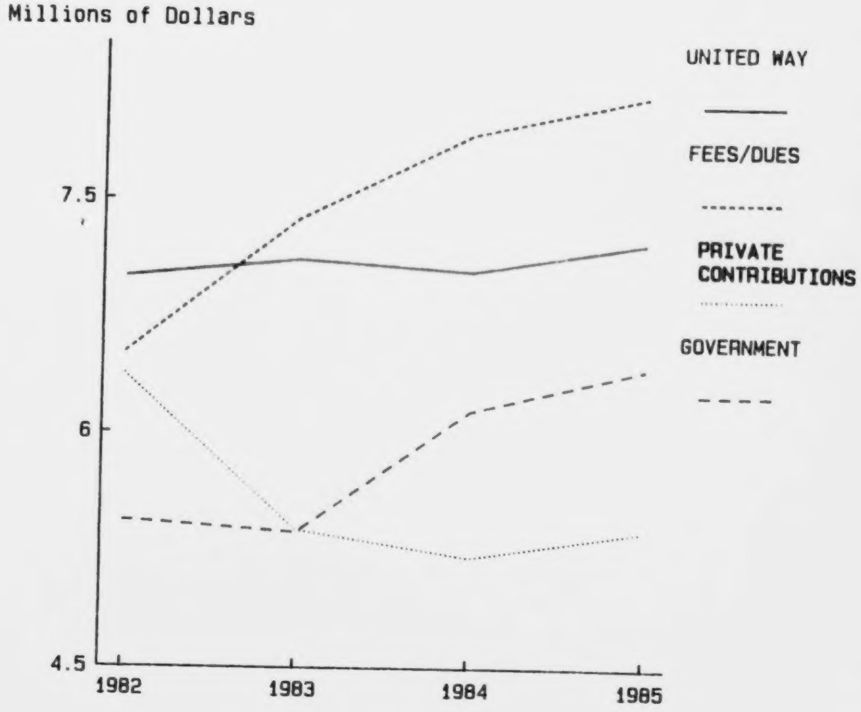
PUBLIC/PRIVATE FUNDING, INDIANAPOLIS
In Constant 1982 Dollars



Matched United Way Agencies, 1982 through 1985

Figure 2

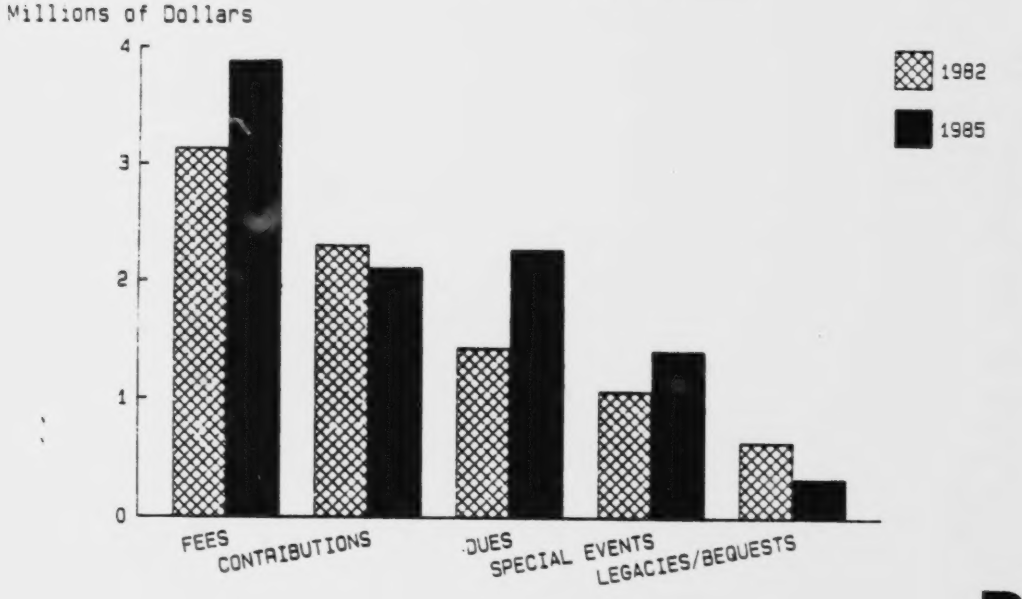
TRENDS IN AGENCY FUNDING SOURCES, INDIANAPOLIS
In Constant 1982 Dollars



Matched United Way Agencies, 1982 through 1985

Figure 3

TRENDS IN PRIVATE SECTOR DOLLARS, INDIANAPOLIS
In Constant 1982 Dollars



Matched United Way Agencies, 1982 through 1985

Figure 4

TRACKING HHS PROGRAM FUNDING STREAMS: PROVIDENCE, 1981

(TOTALING $7,000,000)

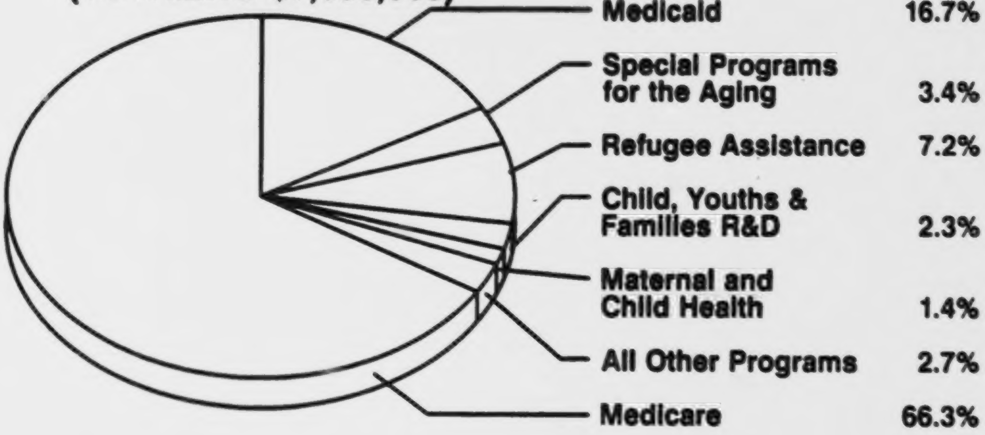


Figure 5

TRACKING HHS PROGRAM FUNDING STREAMS: PROVIDENCE, 1984

(TOTALING $12,800,000)

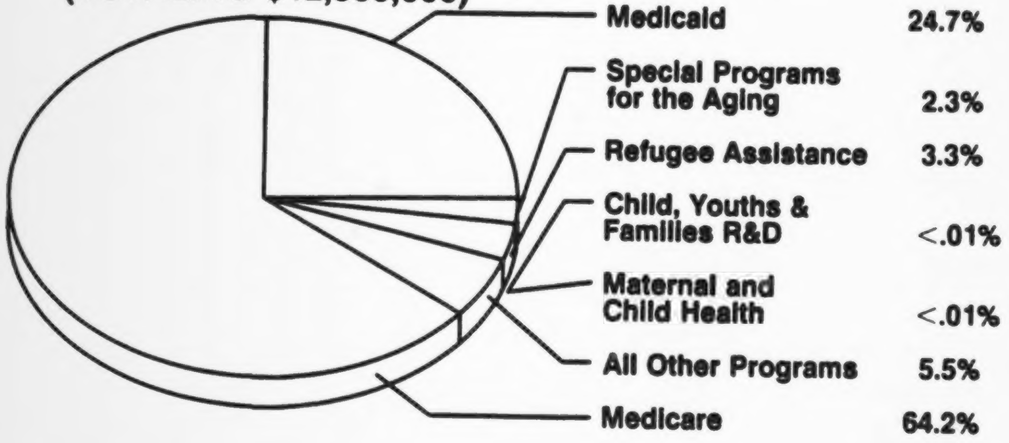
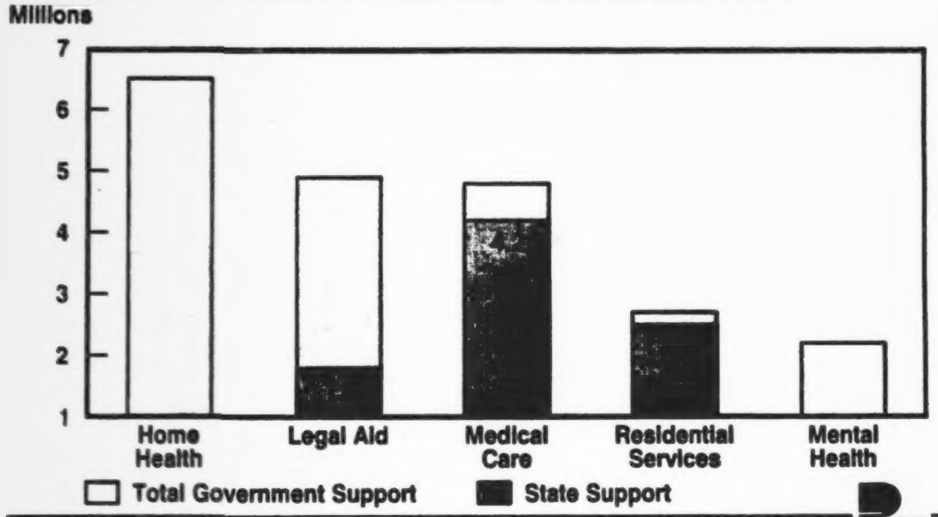


Figure 6

MAJOR GOVERNMENT SUPPORT STATE VS. TOTAL, BALTIMORE, 1984

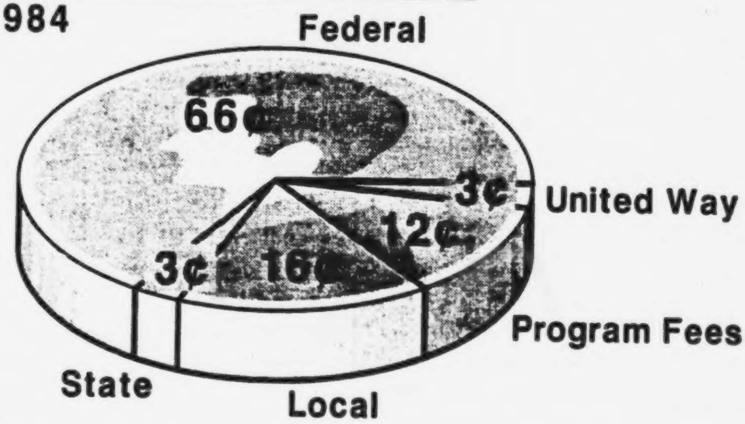


344

Figure 7

HOME HEALTH ASSISTANCE DOLLARS

Baltimore, 1984



Federal: Medicare
State: Department of Health
Local: Department of Social Services

Figure 8

FAMILY AND CHILDREN'S CENTER DETAILED GOVERNMENT SUPPORT: SOUTH BEND, 1985

FY 85 Government Revenues
$1,356,800

Federal:	$316,500	State:	$55,200	Local:	$985,100
Title XX	242,000	Title XX	37,600	County Welfare	961,000
Child Care/Food	43,000	Drug Addiction	17,200	Title XX Match	14,800
FEMA	31,500	Job Training	400	Emergency Shelter	9,300

Figure 9

FAMILY AND CHILDREN'S CENTER PROJECTED TITLE XX LOSS: SOUTH BEND, 1985

Program	FY 1986 Estimate	FY 1987 Projected	Net Loss
Family Counseling	$74,100	$59,354	($14,746)
Day Care	34,200	27,394	(6,806)
Emergency Shelter	32,200	25,792	(6,408)
Homemaker/Handiman	84,000	67,284	(16,716)
Home Management	17,500	14,018	(3,482)
Total: Title XX	$242,000	$193,842	($48,158)

Figure 10

FAMILY AND CHILDREN'S CENTER CLIENTS BY HOUSEHOLD INCOME: SOUTH BEND, 1985

Program	Below Poverty*	Marginal**	Other***
Family Counseling	82	192	516
Day Care	30	15	12
Emergency Shelter	42	43	34
Homemaker/Handiman	89	103	53
Home Management	9	37	4
Total Agency	2,210	625	633

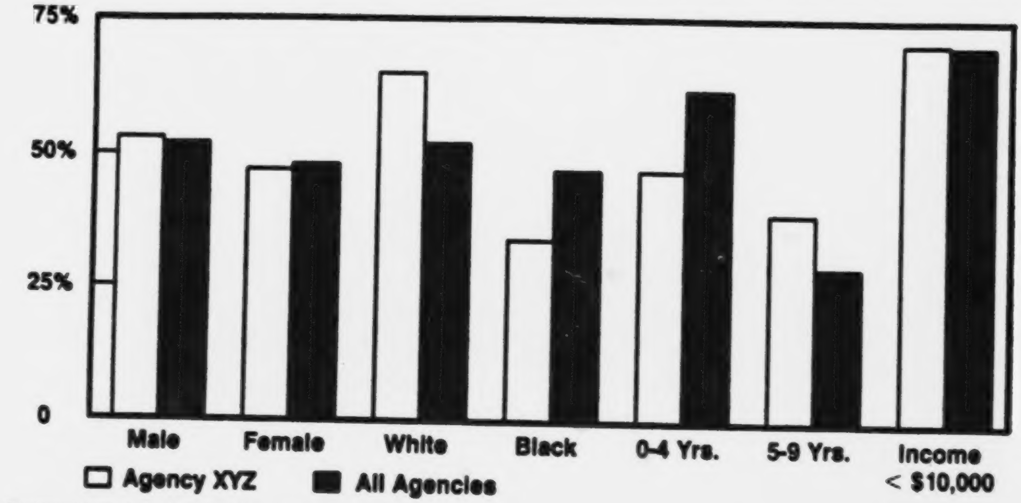
* Under $10,000

** $10,000 to $15,000

*** Above $15,000

Figure 11

DAY CARE CLIENT PROFILE: CHATTANOOGA



Based on 1984 Chattanooga Data

Figure 12

DAY CARE AGENCIES: CHATTANOOGA

CLIENT USAGE BY HOUSEHOLD INCOME, 1984

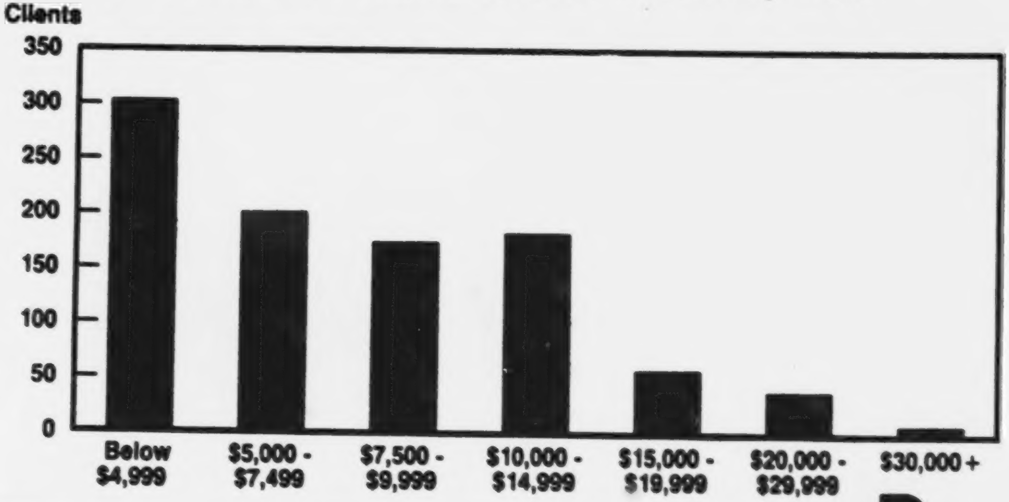
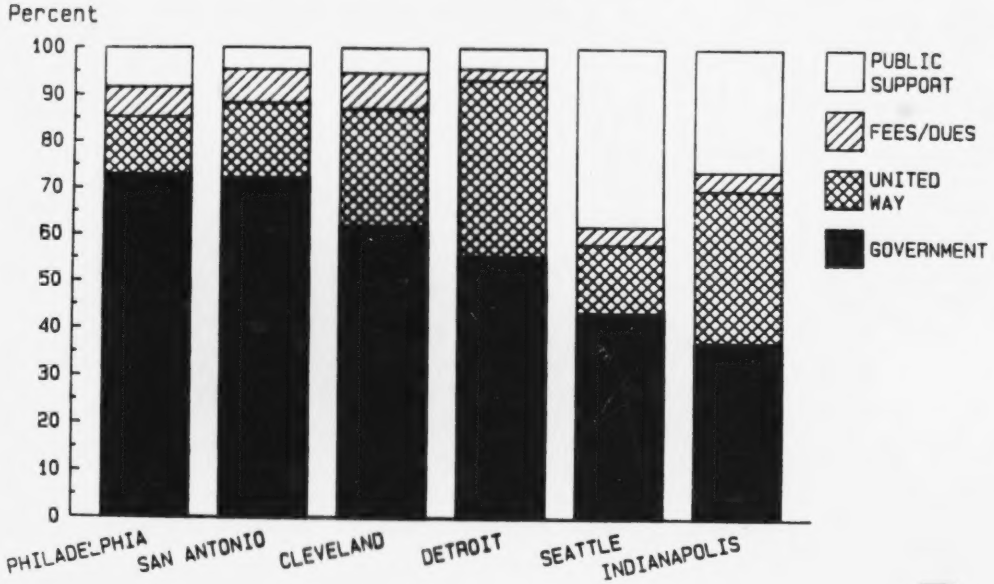


Figure 13

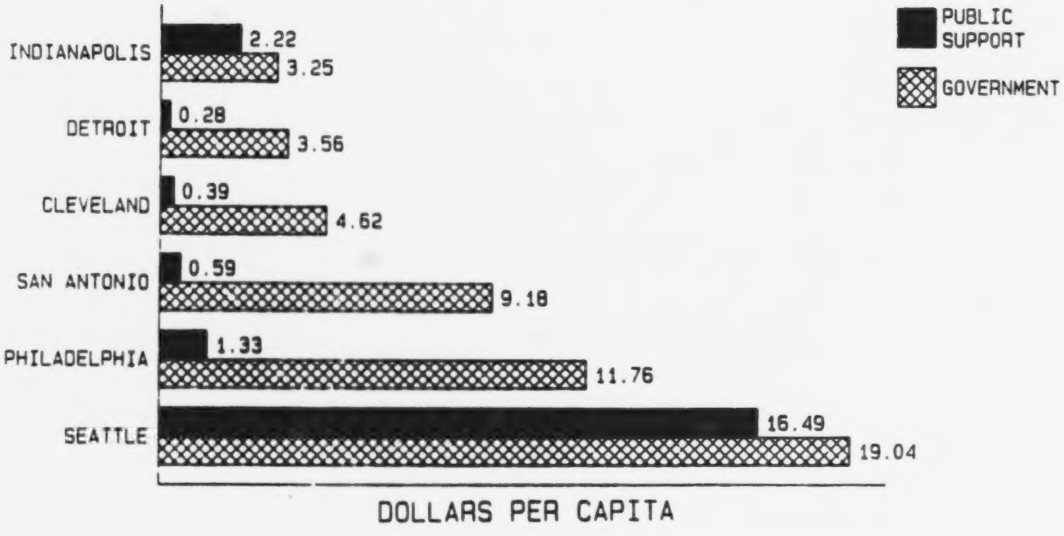
BREAK-OUT OF AGENCY REVENUE
Agencies for the Aging
Select Communities, 1984



Source: Project Flagship Network, 1984

Figure 14

GOVERNMENT vs PUBLIC SUPPORT
Agencies for the Aging
(Per Capita - Population 65+)



Source: Project Flagship Network, 1984

Table 1

AGENCIES FOR THE AGING
Programs Funded by Government Sources
(Ranked by % of Total Budget)
1984

PROGRAM NAME	UWASIS CODE	TOTAL BUDGET	GOVT FUNDING	GOVT AS % OF TOTAL
TOTAL AGENCY		$24,279,248	$13,563,030	55.9%
MG/FR		2,875,918	1,391,375	48.4%
TOTAL PROGRAM		21,403,330	12,171,655	56.9%
HOMEMAKER ASST	705	1,232,443	1,232,443	100.0%
MNTL HLTH TRTMT	210	878,077	837,631	95.4%
TRANSPORT SVCE	304	650,551	568,833	87.4%
EMPLOYMENT PROC	101	296,882	257,210	86.6%
INFO/REFFERAL	804	535,482	459,388	85.8%
HOUSING SVCE	303	412,998	342,929	83.0%
VOL SVCE	802	237,899	179,318	75.4%
HOMEMAKER	203	32427	24270	74.8%
COMM MTL HLTH	208	109951	79656	72.4%
SOCIAL ADJUST	708	622,446	447,376	71.9%
HOME HLTH CARE	205	544,678	355,899	65.3%
AUX SOC SVCE	706	3,160,303	1,749,139	55.3%
NUTRITION SVCE	301	5,159,985	2,761,561	53.5%
MEDICAL CARE	204	4,164,925	2,154,729	51.7%
SPEC EMPLY ASST	103	86303	32536	37.7%
FAMILY PRESERV	701	997,597	344,087	34.5%
OTHR PROTECTN	699	456,914	100,478	22.0%
COMM. HLTH MAIN	201	146,916	32,186	21.9%
SOCIAL DEVELOP	709	1,164,890	178,089	15.3%
ADULT DAY CARE	704	123,905	13,999	11.3%
INTERGRP REL.	711	95,078	8,591	9.0%
LEGAL AID	602	147,942	11,307	7.6%
PLANNING/RSRCH	803	63,998	0	0.0%
OTHR HLTH REL.	299	80,740	0	0.0%

No. of Cities=6
No. of Agencies=18

Source: Project Flagship Network, 1934

Appendix A

UNITED WAY OF AMERICA
Project Flagship
January 1987

PROJECT FLAGSHIP

LIST OF PARTICIPATING COMMUNITIES

Core Communities

Atlanta, GA
Baltimore, MD
Buffalo, NY
Chattanooga, TN
Cleveland, OH
Detroit, MI
Indianapolis, IN
Providence, RI
San Antonio, TX
San Francisco, CA
Seattle, WA

New Communities

Albuquerque, NM
Columbus, OH
Des Moines, IA
Little Rock, AR
Los Angeles, CA
Miami, FL
Minneapolis, MN
Philadelphia, PA
Pittsburgh, PA
Raleigh, NC
Sacramento, CA
St. Paul, MN
South Bend, IN

UNITED WAY OF AMERICA
Project Flagship

Appendix B

November 1985

CORE OBJECTIVES

- Develop a data base network among eleven local United Ways and their participating agencies to collect data on changes in the environment and their subsequent impact on the human service system;

- Measure the impact of changes of public and private funding on human service agencies and the agencies' response to these changes;

- Involve Flagship participants and cooperating agencies in determing how information obtained through this system can be better used in their own decision-making processes;

- Enhance the data collection, data management, and overall research capabilities of the ten local United Ways and participating agencies;

- Share information on technical advances with other, non-participating local United Ways and agencies; and

- Regularly share project findings with local United Ways, national agencies and select corporate legislative constituences.

CHANGING PUBLIC/PRIVATE ROLES IN HUMAN SERVICES

by

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and

Lester M. Salamon

Prepared for Delivery at the Independent Sector Spring Research Forum,
World Trade Center, New York, New York, March 19-20, 1987

The views expressed here are those of the authors, and do not necessarily reflect the views of The Urban Institute, its trustees, or sponsors. The authors wish to express their appreciation to the sponsors of The Nonprofit Sector Project, listed in the back of the this paper, and to their colleagues on this project, also noted in the back of the paper.

Public and private roles have been the focus of much of the human services debate in the 1980s. When the decade began, not much was known about the size and scope of these roles or the extent to which they were intertwined. Debate proceeded on the basis of assertion rather than knowledge. Since that time there has been a considerable amount of research that has begun to lay out the dimensions of public and private roles in human services, and the importance of understanding how these relationships work. The findings of this research have been surprising to many, and make plain the need to re-think many of the common assumptions that gird much of the nation's thinking about human services policy.

KEY ISSUES

There are three key issues of concern in this field. First, what are the roles of public and private actors in funding and providing human services. Second, how are these roles changing? Third, what are the impacts of these changes?

When the 1980s began, there was very little information on what the roles of the public and private sector were, even though many people seemed to think that these roles were well known. In particular, there was inadequate appreciation of the extent to which public roles varied from one part of the country to another, and even less appreciation of the large size of the private role. Moreover, the extent of public/private partnerships was completely underestimated. The problem was that no one had systematically tracked human services programs down to individual communities across the country to document just how large they were on both the public and private side, and what the responsibilities were by field.

Even though extremely little was known about public and private roles when the decade began, major policy and economic changes were put in place that had the potential of drastically changing these roles. Rather grandiose predictions were made about what these changes would be, even though little was systematically known about how roles were defined in the first place. The key question was whether government retrenchment would encourage greater privatization, which in turn would better meet human service needs. Exactly what this privatization was or how it was to be encouraged was very vague.

If changes were to occur in public and private roles in human services, the ultimate issue was what the impact of these changes would be. Would these changes increase the capacity of agencies to diagnose needs and provide services? Would the needy be better served? And would communities be better off economically and socially as a result of these changes? Because these questions are so inclusive, no single research effort could fully answer them. Yet enough research has now been done that we have very clear evidence of what the general trends are.

The Urban Institute's Nonprofit Sector Project began in 1982 to systematically address these questions on both a national and a community level. The work has been carried out in 16 communities broadly representative of the nation. The data gathering and local report writing in this project are coming to a close, and we are now able to turn our attention more toward the national significance of this work.[1] The purpose of this effort has been to document the role of federal, state, and local governments and nonprofit organizations in human services, and to examine the partnerships among these institutions. The work has been carried out over a number of years to measure changes in these relationships as national changes in policy have worked their way down to individual communities. The part of the work discussed in this report includes 5 major program areas: health care, social services, housing and community development, employment and training, and arts and culture. Income assistance and Medicare, the large federal health program serving the elderly, are excluded in this analysis.[2] Some of the most important policy implications of this work are discussed below.

EXISTING PUBLIC/PRIVATE ROLES

Overview

In examining these questions over the last five years, we have learned many things. Perhaps most importantly, we have reinforced in the contemporary human services field what many observers of the American scene more generally have remarked since the country's beginning. No single ideology or structure captures the reality of American life whether it be in human services or other fields. This is so because Americans live in many very different communities, and make very practical decisions to adapt to life as they find it.[3] This means that if one is searching for a neat or simple vision of how American human services policy works, one will surely be disappointed.

The diversity of American life continues today in the human services field more than most people realize. In spite of the growth of the federal government and some of the uniformity its actions have introduced around the country over the last several decades, a considerable amount of local discretion--both public and private--continues to exist in making human services policy. As a result, no national policy shift can have a uniform impact on public and private roles in human services or on the people these services assist. Therefore, national data and projections are of very limited use in understanding the impacts of policy changes on particular communities unless the specifics of communities' varying human service policies are taken into account. In short, local human services policies are diverse and respond very differently to national policy and economic changes.

We have also learned that both the public and private sectors play major roles in human services policy, and that government has not displaced the private sector. We have also learned that neither the public nor private sector is monolithic, but that each is composed of very different actors. Morover, both sectors work together in very important ways to complement each other in determining human services policies. However, this cooperation has tended to evolve haphazardly, with little overall sense of structure or neat division of roles and responsibilities.

Public roles.

In many quarters the public role in the human services field has been equated with the federal government and has been perceived as relatively uniform across the country. Neither of these characterizations is correct, however. State and local governments play a very large role in the human services field, both administratively and in terms of funding. Excluding

Medicare and income assistance, state and local governments account for almost half the dollars spent on human services programs mostly targeted to low-income populations.[4] Beyond this, however, state and local governments actually administer just under nine-tenths of all these programs because most federal programs are delegated to other levels of government.

As a result of the tremendous degree of decentralization and fragmentation that exists in the country, there is a remarkable lack of uniformity among communities in the size of the public role, and the division of responsibility among the various levels of government. Among the 16 communities studied, in our project, per capita government spending for human services varied by a factor of 4 to 1, as Figure 2 shows. Thus, while such spending amounted to $908 per person in New York, it amounted to only $229 in Phoenix, Arizona. Moreover the relative roles of differing levels of government vary as greatly. In Jackson, Mississippi, the federal government accounts for 84 percent of human services spending, while in Pinal County, Arizona, the figure is only 34 percent. In Flint, Michigan, virturally all government spending for human services is administered by state and local governments, whereas in Boise, Idaho, only about three-fifths is.

Private roles.

Going into the 1980s, there was a widespread perception that the growth of government had reduced the private role in human services to insignificance. This myth should be laid to rest by research done over the last several years. In 1982, nonprofit organizations serving the public had expenditures of approximately $131 billion, and employed about 6.5 million people. This means that nonprofit organizations accounted for 5 percent of gross domestic product and one in five service workers in the country.[5] For-profit or proprietary organizations also played an important and growing role in human services, especially in the health care field.

As in the public sphere, the size and scope of the private human services sector varies greatly around the country. Figure 3 shows that nonprofit revenues per capita vary by a factor of 5 to 1 among communities. In many communities, the nonprofit sector is larger than local government. Interestingly, the greatest expansion in the nonprofit sector seems to have occurred in the 1960s and 1970s when the public role was growing substantially in human services. This and other evidence suggests that far from displacing the private role in human services, government has tended to increase it. As we shall see below, there is a very important nexus between public and private roles in this field.[6]

Public/private partnership.

There has been a great deal of rhetoric in the 1980s concerning privatization and public/private partnerships. One might have gotten the impression that these were new concepts in the American context, and things which were largely untried. Nothing could be further from the truth. Private organizations were a part of the American experience from the earliest days, and government and private organizations have long worked together to build some of the pre-eminent private institutions in American education, the arts, and health care, among others.[7]

Public/private partnerships are truly two-sided relationships in the nation's human service field. Government uses nonprofit organizations to provide services it funds, and nonprofit organizations use these funds to accomplish their missions. As Figure 4 shows, excluding Medicare government relies on nonprofit organizations to provide about one-fourth of the human services it funds for low-income persons.[8] This ranges from more than 40 percent in New York City to only 10 percent in Tuscola County. Nonprofit organizations, on the other hand, rely on government for about two-fifths of their revenues as shown in Figure 5. Nonprofit reliance on government funds ranges from 66 percent in Jackson, Mississippi, to 32 percent in Chicago. Note that fees for service account for almost a third of nonprofit incomes, and that private giving accounts for only a fifth of nonprofit income.

Changes In Public/Private Roles

The early 1980s were marked by a major change in federal government policies with the coming of the Reagan administration. There was a signal effort to reduce the role of the national government in domestic life and in the financing of human services in particular, and to transfer more of these responsibilities to state and local governments and private, nonprofit agencies. Although Congress did not agree to all these proposals, there was a considerable reduction in federal spending for human services, as Figure 6 shows. Federal spending for these programs fell dramatically from 1981 to 1982, and drifted to a slightly lower level where it has remained since then. Did these changes in federal policy return human services decisionmaking to communities and better serve needs?

At the outset of the federal cuts, diametrically opposed predictions were made about what the outcome of these changes would be for state and local governments, nonprofit organizations and the communities they serve. What actually happened? Did state and local governments make up for these cuts? Did nonprofit organizations tap private charity to meet increased needs? Were communities more in control of their own destinies and better able to make human services policies? We now have some answers to many of these questions.

There are at least three levels of impacts and responses occasioned by the cuts in federal human services spending and the economic changes that have occurred in the 1980s. First, there are changes in government human service spending. Second, there are changes in nonprofit organizations. And last, but far from least, there are impacts on communities. Let us examine each of these in turn.

Government.

The most important change in government during this period has been the marked retreat of the federal government from financial support for human services. In those programs primarily targeting services to low-income populations, federal spending has declined nearly one-fifth from 1981 levels (see Figure 6). This decline has occurred during a period in which most measures indicate an increase in needs among low-income populations. At the same time, the federal government has turned over more administrative discretion in some federal programs to state governments. In brief, state and local governments find themselves with considerably less human services support from the federal government, and somewhat more authority to make human services decisions in a time of increased need.[9]

The second most important occurrence in this area is what did not happen. Namely, state and local governments did not make up for federal reductions in human services spending. State governments actually intensified the cuts as many of them reduced their own spending for these services. State spending reductions were notable in the health care area as many states reduced Medicaid and other indigent health care spending. Most local governments, by contrast, increased their spending during this period. Because of their relatively small funding role, however, local governments were not able to make up for state government cuts, much less federal cuts.

The result of these changes was naturally a reduction in overall government spending in the human services field. Overall 1984 government spending in these fields was 6 percent lower than it had been in 1981 in the thirteen sites. The reductions were greatest in employment and training where government spending declined by 42 percent. Social services spending declined by 5 percent, health care by 3 percent, and housing and community development by 2 percent. Arts and culture was the only field to show an increase, up 1 percent.

Nonprofit organizations. As we have seen, governments use nonprofit organizations to provide many of the services they fund. Did governments pass on the cuts in funding that occurred to nonprofit organizations, or did they turn more to nonprofit service provision absorb the cuts themselves.

Preliminary data indicate that governments did not increase their use of nonprofit organizations in the face of general government spending reductions. Data from 13 of the 16 Nonprofit Sector Project sites show that governments decreased their support of nonprofit organizations by 3 percent between 1981 and 1984--smaller than the oveall reduction in government spending, but still significant. These cuts were unusually large in employment and training (down 34 percent) and arts and culture (down 18 percent). There were also cuts in government support for nonprofit social services agencies. Government support increased for nonprofit organizations in health care and housing and community development, though these patterns were very erratic among the 13 sites.

The effect of reduced government spending, therefore, was a weakening of the extensive public/private partnerships that were in place before the coming of the Reagan administration. Unfortunately, policies intended to strengthen these relations had exactly the opposite impact.

At the same time that governments reduced their support of nonprofit organizations, the funds that government agencies kept for their own direct service provision declined even more. In fact, government service providers saw their own revenues reduced by 11 percent between 1981 and 1984. The resulting decline in government provided services had the effect of increasing demands for services on nonprofit organizations. For-profit providers also increased their own efforts to secure government funds during this period, particularly in health care. As a result competition between nonprofit and for-profit organizations increased.

How did nonprofit organizations respond to the challenge of less government funding, greater demands for services, and increased competition with for-profit providers? The answer to this question varies considerably among different types of agencies. As a general rule, however, agencies were not able to offset their government funding losses from private giving. To the extent they recovered, therefore, they did so by tapping increased fees and service charges. Such income accounted for close to 70 percent of the replacement income that nonprofits managed to secure and allowed the nonprofits we surveyed to post an overall 6 percent gain in total income despite the government cuts. However, agencies with limited access to fee-paying clients--e.g. agencies serving the poor and those providing advocacy, legal services, employment and training, social services, and the like--were not able to offset government cuts, and ended up with net reductions in income.

Impacts on Communities and People.

The impacts of these changes on particular localities varied widely as might be expected given the great diversity characterizing American communities. For example, the Chicago/Cook County area saw a 14 percent reduction in government spending during this period while the Phoenix/Maricopa County area experienced an 11 percent increase.[10] One of the major factors responsible for these differential impacts was variability among state responses. In Cook County, for example, state spending dropped 23 percent between 1981 and 1984, while state spending in Maricopa County increased by 45 percent during this period. Because local government spending is comparatively small, changes in local spending had less overall impact on the level of government spending changes among communities.

Nonprofit organizations were also effected differently by community. In most communities, nonprofit organizations lost government funding from 1981 to 1984. For example, in San Francisco, nonprofit organizations lost 24 percent of their government funds during this period. But nonprofits in some sites experienced significant increases in government funds. Nonprofit organizations in Phoenix experienced a 25 percent increase in their funds because of a new state-wide program financing indigent health care.

The data suggest that services to low-income populations by both public and private agencies were substantially reduced in the early 1980s. Federal spending for programs to serve the low-income population were reduced, and state/local cuts reinforced these reductions. As a result, direct government service provision in these fields dropped significantly, particularly for indigent health care. Cuts in government spending were also passed on to nonprofit organizations. Though nonprofit organizations generally made up for overall government cuts in their budgets, most of the increase came from increased fee revenues. By increased charitable giving to nonprofit organizations offset a much smaller share of the government cuts. As a result, it seems likely that the level of activity in the sector oriented toward low-income populations dropped. In sum, low-income populations had significantly less access to services in the mid-1980s than they started out with at the beginning of the decade.

The available evidence also suggests, however, that the broad middle class continued to receive a wide array of services and income support. Spending increased in inflation-adjusted terms for the social insurance programs such as Social Security and Medicare,[11] and nonprofit revenues increased as a result of growth in fee income. It would seem therefore, that the brunt of the human services cuts in the 1980s have been passed on to low-income populations and not to communities as a whole.

Another important impact of these changes has been to impose a constant crisis mentality on human service agencies that has made long-term planning largely impossible. Agencies have been preoccupied with adapting to potentially significant budget cuts each year. Because the process often drags out over a very long period of time before it works its way down to state and local governments and nonprofit organizations, gross uncertainty has become a way of life for many agencies. As a result, agencies have spent a great deal of effort to cope with these pressures, and have had considerably less resources to devote to strategic planning.

USES FOR THIS RESEARCH

Human Services Budgets

One thing this research has shown is that most communities have never had a human services budget. Generally, there is no comprehensive understanding of the total of federal, state, local government and private resources devoted to human services in a community, their distribution by service field, or the extent to which organizations complement or duplicate each other. There is a simple reason why this is so. Our highly decentralized system of government and many ad-hoc relations between the public and private sector mean that each community is unique. Moreover, there is no single body responsible for piecing together this complex puzzle or making the information known. All this has meant that few people in a community have a very comprehensive or detailed understanding of what de facto human services policy is where they live, how it compares to other communities, or how it might be altered as a result of national policy, state and local policy, or economic changes.

This work has also shown how human service budgets can be put together in communities. Though the comprehensiveness of this effort may not be appropriate in each community, there are lessons to be learned that could lead to more modest efforts for local decisionmaking pupurposes.[12] As a minimum, human services budgets of this kind make clear what level of resources is available to meet needs, and what the relative distribution of responsibility is among different levels of government and the private sector. In many cases, these budgets reveal less money being spent for various services than may local decisionmakers expect.

Matching Needs and Resources

The existence of a human services budget makes it possible to improve the extent to which resources can be targeted on local needs. Local United Ways, local government agencies, and other actors often perform various types of needs analyses in communities. Some level of human service budgeting would provide the logical complement to needs assessments for planning future human services policies.

Prediction and Planning

Information of the sort examined here can also be helpful in estimating the consequences of future policy changes. Federal changes have very different impacts in different communities. Data on these impacts is therefore important not only to assess part developments but also to gauge the consequences of future proposals.

Cooperation

Above all, this work should demonstrate clearly that no sector can go it alone if human service policies are to work well. All levels of government, the nonprofit sector, the for-profit sector, and the many elements of each need to work with each other to better serve community needs. No single institution has the authority or capacity to direct, provide, or monitor human services policy. It is only through the sharing of information and sponsorship of joint planning and service provision that local policies can be made more responsive to needs.

CONCLUSION

The turmoil in human services policy in the 1980s has provided the impetus for researchers to come to grips with the highly complex human services policy that exists in this country. In this research process, many myths have been dispelled, and we are now in a much better position to understand what the impacts of future policy changes may be. One of the most important points from this work is that there is no single welfare state in America. Therefore, national policy changes are only one aspect of changes in local human services policies. This work has also made clear that the welfare state in America was built though public/private partnerships with an enormous and complex private sector, which in many respects has been invisible. As a result of recent policy changes, however, this system of public/private partnerships is in the midst of major changes. To date, these changes suggest that both the "charity" and "welfare" aspects of the American welfare state are in decline, and that those most in need were most hurt by the policy changes of the 1980s.

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1. For a fuller discussion of how this work was carried out, see Lester M. Salamon, James C. Musselwhite, Jr., and Carol J. De Vita, "Partners in Public Service: Government and the Nonprofit Sector in the American Welfare State," in Philanthropy, Voluntary Action, and the Public Good (Washington, D.C., The Independent Sector and the United Way Institute, 1986), pp. 3-38.

2. Medicare and income assistance data are excluded from this analysis partly as a result of data availability concerns but also to avoid misleading conclusions.

3. For the classic statement on American communities' diversity and practicality, see Alexis C. De Tocqueville, Democracy In America (New York: Vintage Books,). A more contemporary analysis of distinctive variations on these themes is found in Daniel J. Elazar, American Federalism: A View From The States (New York: Thomas Y Crowell Company, 1966).

4. If Medicare were included in these figures, the state and local share of government spending would drop to 30 percent.

5. Lester M. Salamon, "Nonprofits: The Results Are Coming In," Foundation News (July-August, 1984), p. 16.

6. See Lester M. Salamon, "Government and the Voluntary Sector in an Era of Retrenchment: The American Experience," Journal of Public Policy, Vol. 6, Number 1, pp. 1-20.

7. For an examination of public/private issues and public policy, see James C. Musselwhite, Jr., and Lester M. Salamon, "Social Welfare Policy and Privatization: Theory and Reality in Policymaking," in Mark S. Rosentraub (ed.), Urban Policy Problems: Federal Policy and Institutional Change (New York: Praeger, 1986). For a discussion of the origins and contours of this cooperation, see: Lester M. Salamon, "Partners in Public Service: The Scope and Theory of Government-Nonprofit Relations," in W. Powell, ed., The Nonprofit Sector (New Haven: Yale University Press, 1987), pp. 99-117. For a more explicit treatment of the theoretical foundations for these terms, see: "Of

(Footnote 7 Continued on Next Page

(Footnote 7 Continued from Previous Page)
Market Failure, Voluntary Failure, and Third-Party Government: Toward a Theory of Government - Nonprofit Relations," Journal of Voluntary Action Research, June 1987.

8. This figure is lower than reported in some of our other work because the large Medicare program has been excluded from this calculation. Because so much Medicare funding goes to nonprofit hospitals, its inclusion substantially increases the share of government spending going to nonprofit organizations. With Medicare included, the nonprofit share of government spending was 34 percent in 1982.

9. The data for this section are drawn from preliminary data for 13 of the study sites. Not included are New York, Pittsburgh, and Atlanta.

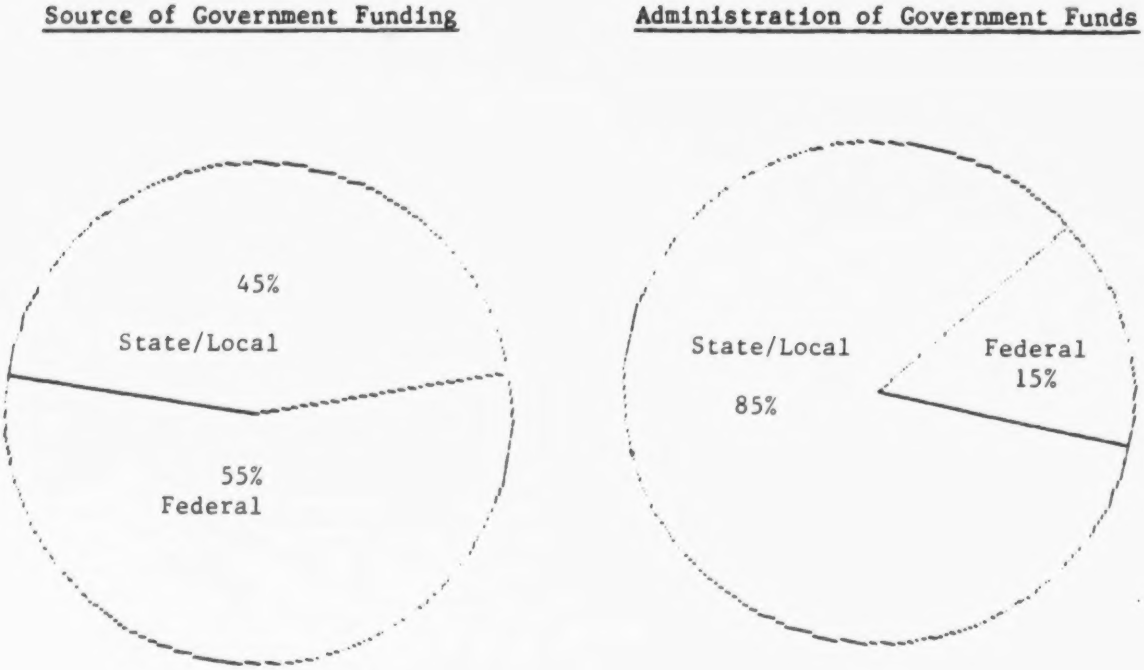
10. See Lester M. Salamon, Pamela A. Holcomb, James C. Musselwhite, Jr., and Kirsten A. Gronbjerg, Human Services In Chicago: The Changing Role of Public and Private Providers (Washington, D.C.: The Urban Institute, forthcoming) and James C. Musselwhite, Jr., Lester M. Salamon, and Johns S. Hall, Human Services In Phoenix and Pinal County, Arizona: The Changing Role of Public and Private Providers (Washington, D.C.: The Urban Institute, forthcoming).

11. Federal spending for these programs was reduced below what it would have been had no action been taken, but absolute levels of spending increased after adjustments for inflation.

12. A mid-level example is an Urban Institute analysis of resources and needs for the San Francisco Bay Area done as a part of a court case there. See Statement of Expert Testimony by Lester M. Salamon, No. 23259, the Estate of Beryl H. Buck, Superior Court of the State of California, County of Marin, 1986.

Figure 1

State and Local Government Roles*
In Government Human Services 1982

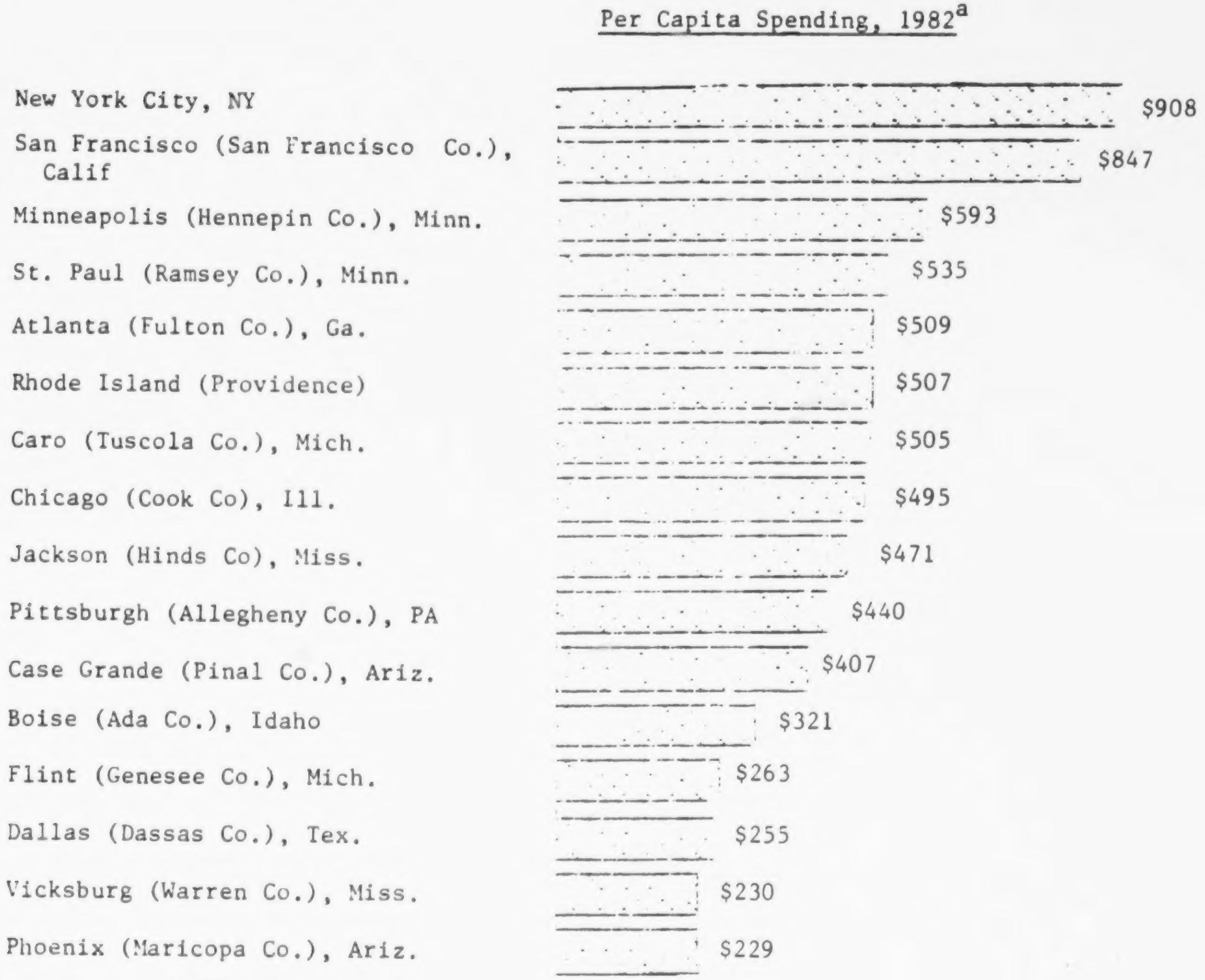


*Excludes Income Assistance and Medicare

Source: The Urban Institute Nonprofit Sector Project

Figure 2

Per Capita Government Spending on Selected Human Service Programs in Study Sites, (In Hundreds of Dollars)

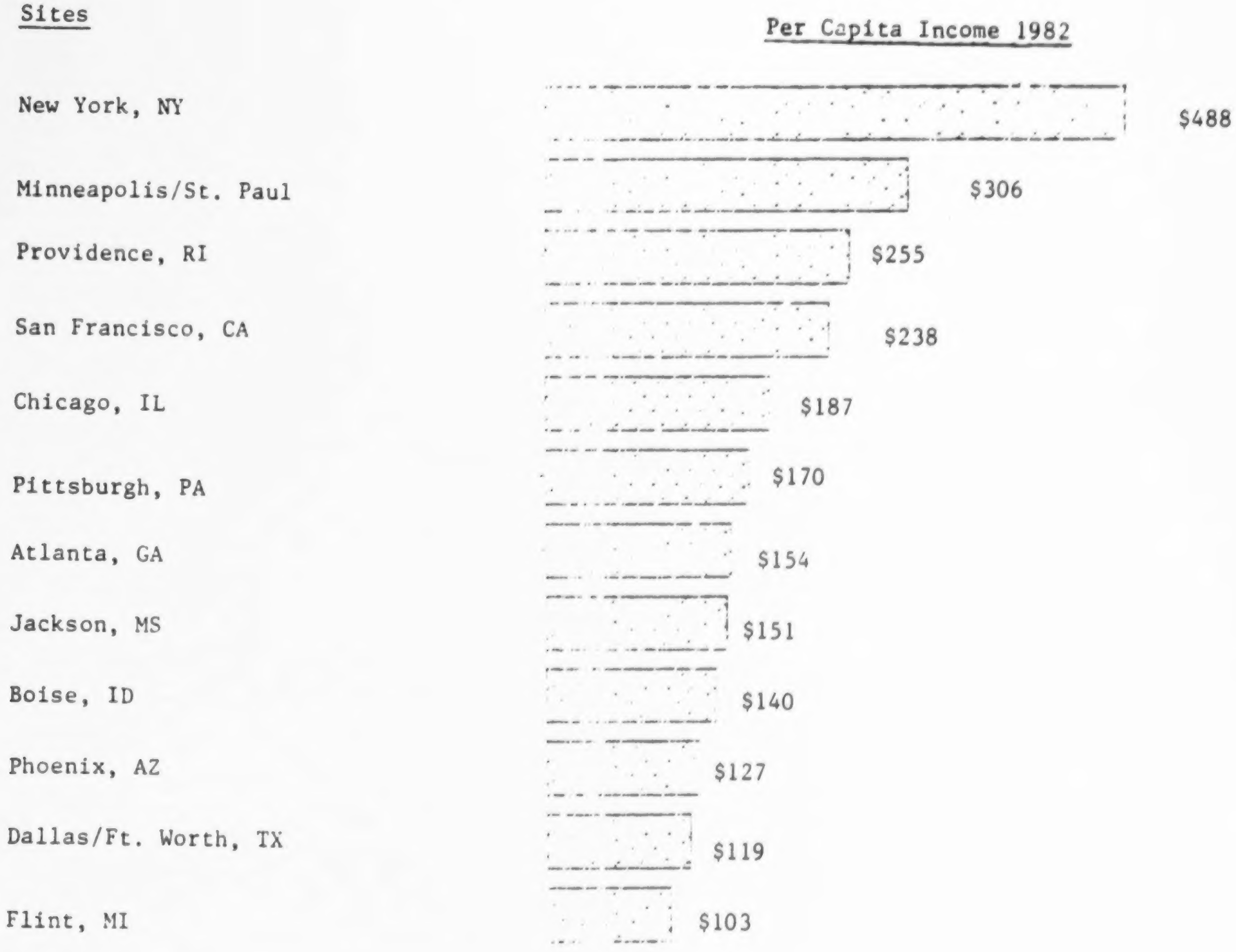


[a] Excludes income assistance and Medicare dollars.

Source: The Urban Institute Nonprofit Sector Project, Round I data.

Figure 3

Per Capita Income of Nonprofit Agencies
In Twelve Metropolitan Sites*

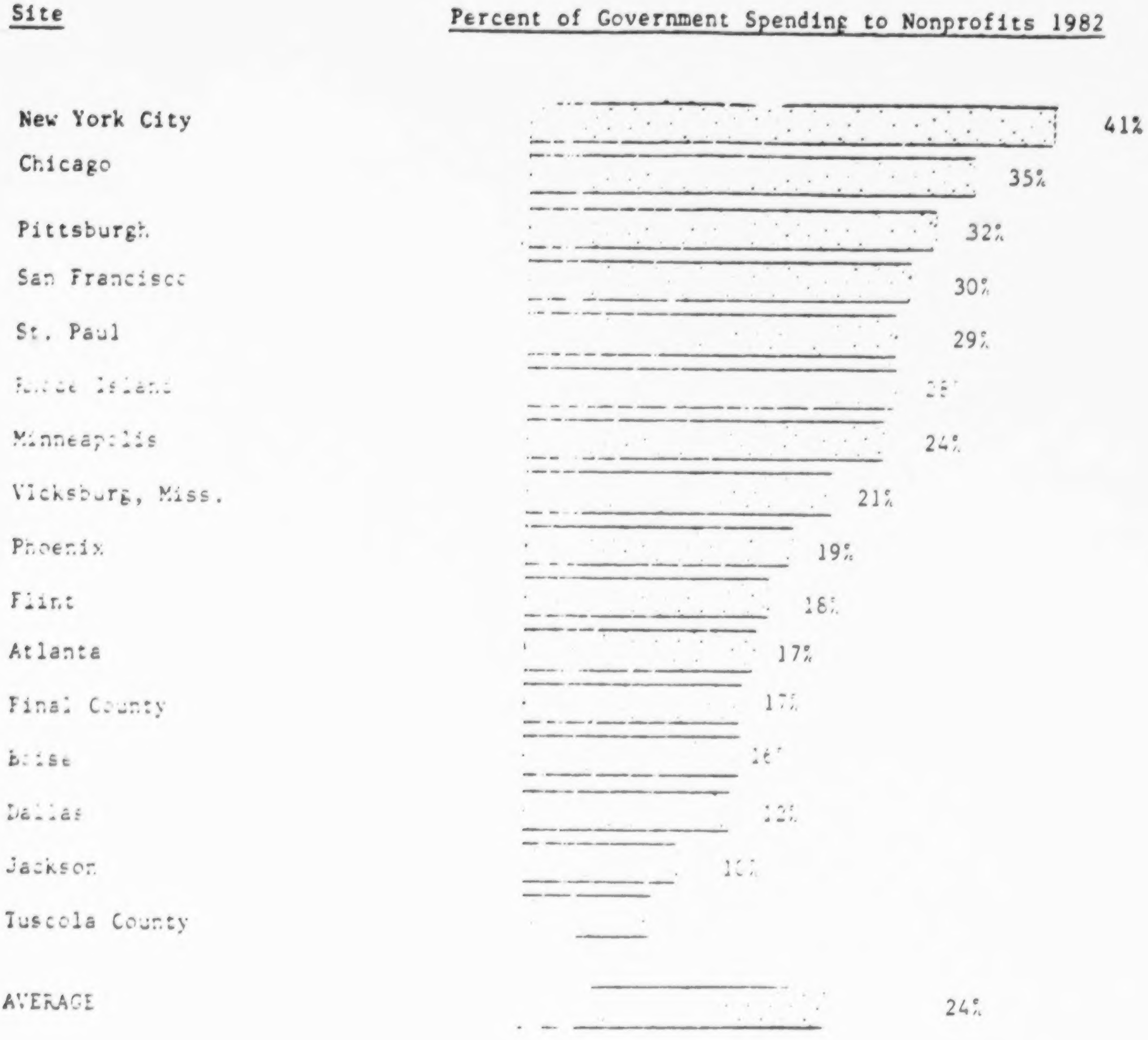


*Revenues from nonprofit hospitals, universities and schools are excluded.

Source: The Urban Institute Nonprofit Sector Project

Figure 4

Government Use of Nonprofit Organizations*

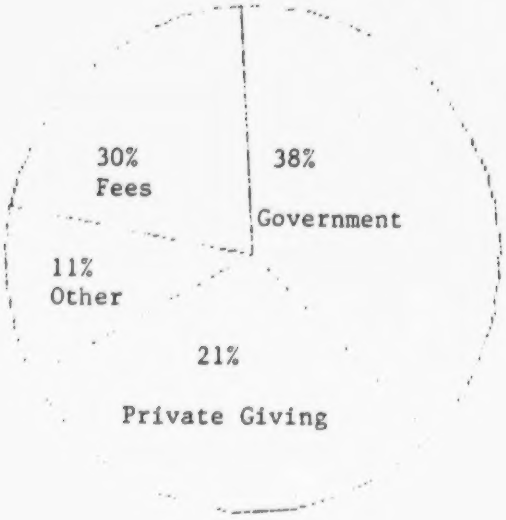


* Excludes Medicare

Source: The Urban Institute Nonprofit Sector Project

Figure 5

Nonprofit Income 1982*



*Nonprofit hospitals, universities, and schools are excluded

Source: The Urban Institute Nonprofit Sector Project

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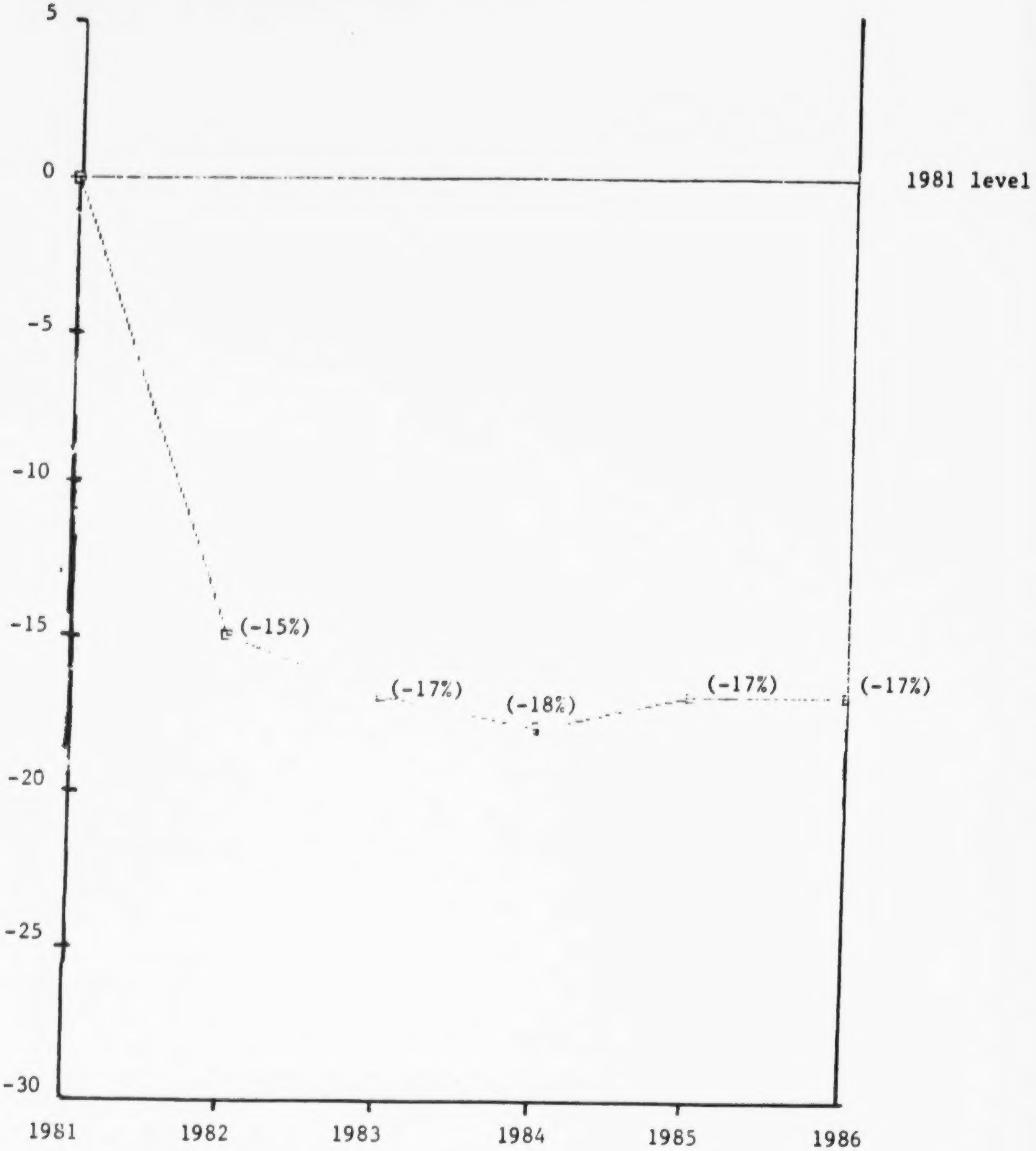
Figure 6

Changes in Federal Spending on Selected Human Services Programs Nationally, 1981-1986



Source: The Urban Institute Nonprofit Sector Project

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ENTREPRENEURIAL ACTIVITIES OF THE NONPROFIT SECTOR

by

Dennis R. Young

Prepared for the Independent Sector
Spring Research Forum
Panel 6: Competition and the Nonprofit Sector
March 19, 1987

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INTRODUCTION

A decade ago, "entrepreneurship" was a term foreign to the nonprofit sector; it was a concept seen applicable only to the business world. Much has happened in the last ten years. "Entrepreneurship" currently enjoys great popularity in nonprofit circles but is still largely misunderstood. It is now commonly associated with commercial activity undertaken by nonprofit organizations to generate revenues. In fact, there is no intrinsic connection between entrepreneurship and profitmaking. Rather, entrepreneurship is a generic process that is fundamental to organizational, economic and social change. As such, its importance to the nonprofit sector is not yet fully appreciated.

The meaning of entrepreneurship was best conceptualized by Schumpeter who described it as the process of implementing "new combinations" of the means of production.[1] Thus, entrepreneurs find new ways of doing things - new products or services to offer, new methods for providing goods or services, new markets to serve, new ways of organizing provision, and so on. Entrepreneurs are not necessarily the inventors of new ideas or the providers of capital to finance them. Nor are they necessarily the managers who administer an innovation once it is in place. Rather, the entrepreneur is a catalyst for change who realizes the potential of the new combination and does what is necessary to implement it.

Implicit in the concept of entrepreneurship is the notion that constructive change does not occur automatically. Entrepreneurs must consciously and conscientiously promote and oversee the implementation of new developments within constraints and opportunities shaped by the environment. The importance of entrepreneurship for the nonprofit sector can be appreciated in this light. Nonprofit organizations operate in a turbulent world that requires change to ensure organizational survival, effectiveness and responsiveness. Effective adaptation in the nonprofit sector, as elsewhere in the economy, thus requires entrepreneurship.

As reviewed by Peterson, there has been extensive research on entrepreneurship in the business sector and some in the public sector as well.[2] And, there have been various documentary accounts of organizational and programmatic change in the nonprofit sector that take entrepreneurship as their implicit focus.[3] But explicit scholarly attention to entrepreneurship in the nonprofit world is still rare. In this paper, I want to indicate six areas of research on nonprofit entrepreneurship that can usefully be investigated.

AREAS OF INQUIRY

My six important research questions are:

(1) How does entrepreneurship in the nonprofit sector differ from that in the business and government sectors?

(2) How can an understanding of nonprofit sector entrepreneurship contribute to the development of economic theory of the nonprofit sector?

(3) How does nonprofit entrepreneurship work to promote social change?

(4) How does the entrepreneurship process help nonprofit organizations adapt to new conditions?

(5) How does entrepreneurship interface with the overall management of nonprofit organizations?

(6) Can the supply of nonprofit entrepreneurs be enhanced and developed? If so, how?

How Is Nonprofit Entrepreneurship Different?

Entrepreneurs are not typical of the general population. They exhibit certain combinations of motives, skills, personal attitudes and styles that permit successful venturing. Moreover, the motives, skills and attitudes of those in the nonprofit sector may be different from those at work elsewhere. For example, David McClelland recognized this distinction in his differentiation of achievement-oriented, power-oriented and affiliation-oriented individuals.[4] He found that business sector entrepreneurs were achievement-oriented, judging themselves by concrete indicators of accomplishment rather than, say, recognition by, or control of, others. By implication, public sector entrepreneurs were surmised to be more power-oriented.

In actuality, the differences in entrepreneurial motivations among sectors may be considerably more complex. Other scholars have identified various operant motives for business sector and public sector entrepreneurs.[5] I have classified ten different types of entrepreneurs that vary in motive and style, and which differentiate nonprofit entrepreneurship from that found elsewhere by the relative incidence of these types in alternate sectors. The alternative entrepreneurial motives range from income, personal autonomy, and satisfaction from the creative process, to strong social beliefs, professional rewards and search for personal fulfillment, to power and personal recognition.[6] In related work, I have explored the environmental factors, including the risks and constraints, that distinguish nonprofit entrepreneurship.[7] Contrary to common belief, I found that nonprofit ventures often posed risks as serious as those facing entrepreneurs elsewhere, though the nature of those risks was somewhat different - involving, for example, loss of professional prestige as much as financial loss.

Constraints were found to substantially differentiate nonprofit entrepreneurship from that elsewhere.[8] While in the business sector constraints are primarily financial, and while in the government sector they are predominantly political and bureaucratic (e.g. associated with inter-agency rivalries, restrictions on use of funds, partisan and spatial politics and civil service requirements), nonprofit constraints were found to be a highly varied mix of these, plus restraints deriving from government regulation and from the influences of donors, professional staff and volunteers. In all, nonprofit entrepreneurs appear to face a more complex constraint set, deriving from the participative character of these organizations, their more varied sources of funding and the fact that they provide public services that are likely to be regulated.

Research on the motivations and constraints of nonprofit entrepreneurs is not only interesting in its own right but important to the theory building, and policy and management issues discussed below.

Entrepreneurship and Economic Theory

Behavior. While economists have been relatively successful in modeling the behavior of firms in the business sector and bureaus in the public sector, and in using these models to build theories of sector behavior, they have been less successful in modeling nonprofit organizations. As suggested in an excellent synthesis of the literature by James and Rose-Ackerman, the reasons for this difficulty are closely related to entrepreneurship:[9] "...we have no objective function for the NPO, as we do for the PMO or for other institutional forms ... Instead, the NPO is defined by the non-distribution constraint, and we are left to speculate on what its objective might be.... In order to say very much about NPO behavior...we must explain why people found NPO's and also put some content into the objective functions of managers."

Conceivably, study of nonprofit entrepreneurship could contribute to the development of an economic theory of the nonprofit firm in three different ways: (a) by helping to formulate conventional optimizing models with alternative objective functions and constraints for different areas of nonprofit activity; (b) by assisting in the development of a generic optimizing model of the nonprofit firm; and (c) by contributing to the formulation of a nonconventional (behavioral) theory that might accommodate both multiple objectives and nonoptimizing behavior.

As James and Rose-Ackerman observe in their review of the literature:[10] "A variety of models have been developed, dealing with different industries, assuming different goals and producing correspondingly different results." I have argued that structural differences among industries and sectors help determine the mix of entrepreneurial motivations attracted to the nonprofit sector in any given industry.[11] In turn, this mix will strongly influence the behavior (objectives) characterizing that sector. Given the diversity of industries in which the nonprofit sector is involved, study of the entrepreneurial element is likely to reveal alternative motivational bases for nonprofit behavior among industries. But, within any given industry, entrepreneurial research can help identify the dominant motivational strains and hence the appropriate objective function for nonprofit firms in that industry.

A greater challenge to economic theory is the formulation of a generic optimizing behavior model of the nonprofit organization. This has been the goal of economic researchers for at least ten years now, James's and Rose-Ackerman's above-mentioned reservations notwithstanding. My own work, with its emphasis on multiple entrepreneurial motivations, also discounts this approach.[12] Nonetheless, there is value in this mode of theory building and the study of entrepreneurship can contribute to it.

One such contribution is to check the excesses of the so-called "property rights" school of economic theorizing which holds that the nonprofit organization is simply a profit-maximizing entity whose surpluses are paid out as non-pecuniary as well as pecuniary compensation, to managers motivated by some (identical) combination of the two. Because of the non-distribution constraint, nonprofits are seen as having to overcompensate their managers with costly extra perquisites. This mode of analysis concludes that nonprofit organizations are necessarily inefficient and survive in their competition with profitmakers primarily because of the governmental subsidies and benefits they are granted. Schlesinger shows, however, that such a conclusion is incorrect if managers vary in the degree to which they are motivated by pecuniary versus nonpecuniary rewards.[13]

Schlesinger's work and that of Rose-Ackerman demonstrate that an understanding of entrepreneurial motivations, as revealed in empirical observation of entrepreneurial behavior, is key to proper modeling of these organizations.[14] Another important example is the work of Estelle James, who models the nonprofit as maximizing the utility of its managers within a breakeven financial constraint.[15] James candidly views the nonprofit organization as a vehicle through which entrepreneurial managers, e.g. university faculty, museum executives, public television managers, satisfy their professional objectives by engineering combinations of certain lucrative but less professionally desireable activities and other, professionally desireable programs that require subsidy. Despite its uniform nonprofit managerial utility function, James's model of the nonprofit as an entrepreneurial microcosm produces important insights into cross-subsidizing behavior and the undertaking of profitmaking initiatives by nonprofit organizations.

Although appreciation of the entrepreneurship process in nonprofits has contributed to a useful broadening of conventional economic models of nonprofit organizations, the most important contributions of entrepreneurship to theory development could come from breaking with the conventional optimization/equilibrium mold.[16] Few researchers have yet ventured into the realm of nonconventional theory to characterize nonprofit organization behavior. In my own work, I have foregone an optimizing model in favor of one that presumes that entrepreneurs with a variety of motivations are screened into the nonprofit sector and enjoy considerable discretion to influence the style and direction of those organizations.[17] Though this framework is more cumbersome, it can account for the variety, as well as changes in the mix, of observed behaviors as factors influencing the sorting of nonprofit entrepreneurs and support for their activities are altered.

Existence. Various economic theories have been offered to explain why nonprofit organizations exist in an economy featuring both a market and a government sector. These are primarily "demand-side" theories, based on market-imperfections or failure of government to provide certain types or levels of services desired by consumers.[18] Little attention has been paid to the "supply-side" to explain the formation of nonprofit organizations. In a study of five cases of organizations that, under entrepreneurial leadership, switched sectors from government or the proprietary sector to the nonprofit sector, Judith Legoretta and I identified a number of supplyside factors not accounted for in the demand-side theories.[19] For organizations previously in the profit-sector, factors included entrepreneurial desires to maintain control of particular service programs while easing the financial burdens of ownership; and to improve an organization's public image and access to alternative sources of funds. Alternatively, for organizations previously in the government sector, entrepreneurial rationales included achievement of greater managerial autonomy and flexibility; and broadening of an agency's base of support.

Supply-side theory of nonprofit organizations would be based on the idea that entrepreneurs conceive their own purposes, help shape the environment to support those purposes, and choose the nonprofit form when those purposes are best accommodated in that way. If available case studies are a guide, the answers that derive from this mode of analysis will both supplement and complement those received from available demand-side theory.

Entrepreneurship and Social Change

As the implementers of "new combinations", nonprofit entrepreneurs play a central role in developing better ways of providing existing services, establishing new kinds of services, and initiating services to previously unserved groups. But nonprofit entrepreneurs are also central to more global change such as the reform of laws and processes at the system and societal levels. One can think of nonprofit entrepreneurs in two groups - those who work in an advocacy mode to bring about major legal or structural changes, and those who work in a service mode, addressing themselves incrementally to the needs of particular clientele groups. Those who established the Children's Defense Fund would be an example of the former; those who established Harlem-Dowling, a children's service agency in New York City, would be an example of the latter.[20] The link between major social change and the former variety of entrepreneurship is obvious. That between social change and the second, "grassroots" variety of nonprofit entrepreneurship is less transparent.

The literature on innovation in the commercial sector makes clear that the principal source of change is entrepreneurship of the latter type.[21] The world has been changed many times over by individuals who implemented some new idea or invention - the assembly line, the light bulb, fast food, the xerox machine - in the context of a local business. Few, if any, of those entrepreneurs set out to change the world. Yet their innovations took hold and transformed their industries and ultimately the society at large.

This process also occurs in the nonprofit world, though is it not as well understood. One unresolved question is: what is the relative potency of "grassroots" entrepreneurship in bringing about social change, versus advocacy entrepreneurship aimed directly at global changes in system policy and structure? Another interesting question is what proportion of grassroots entrepreneurship is purely parochial and how much is consciously aimed at bringing about global social change? My impression is that undertaking change at the agency level in a conscious effort to precipitate changes on a more global scale is not unusual in the nonprofit sector.[22] Whether or not they are formally designated as "demonstration projects", such innovations are ones which the entrepreneurs explicitly desire will be duplicated elsewhere. Indeed, it is common for entrepreneurs in "leading edge" organizations to see their missions as demonstrating the efficacy of their ideas so that other (follower) organizations or the government will adopt and expand their use.

Thus, an important research question is what mixes of these entrepreneurial initiatives, those that are purely local and incremental and those that aim directly at structural social change, are effective in bringing about such change? This would appear to be an important strategic question for would-be social reformers.

Entrepreneurship and Organizational Change

The nonprofit sector adapts to new environmental conditions largely through structural changes in its member organizations. Since the 1960's and until very recently, this has been an expanding sector, with much of the growth taking place through the formation of new organizations.[23] Another component of growth has taken place by the expansion of existing organizations.[24] Since the end of the 1970's, however, the resources available in many areas of nonprofit activity have been cut back; retrenchment and redirection have become strategies of the day, manifested in reduction and dissolution of many organizations. But where organizations have been successful in weathering the economic storms, they have done so by merging with other agencies, and in some cases by mounting dramatic new initiatives and implementing new organizational structures and programs that have enabled them to become more successful than they were before.[25]

Entrepreneurship is most commonly associated with the establishing new organizations, and secondarily with developing of new programs within existing organizations, but it is also intrinsic to "organizational turnarounds" and mergers.[26] Thus, entrepreneurship research is relevant to several important questions about how the nonprofit sector adapts organizationally to a variety of economic and social conditions. In periods of expansion, it is of interest to know why growth is largely manifested by the formation of vulnerable and often tenuous new organizations rather than established ones. What are the reasons that entrepreneurs choose this alternative, or indeed form new agencies by spinning off parts of existing organizations?[27] Is this a productive response or would it make sense to try to make conditions within nonprofit organizations more conducive to hosting the internal development of new projects and programs? And where spin-offs are appropriate, what can parent organizations do to ensure the success of their progeny?

In periods of retrenchment, what are the factors that lead to successful mergers? What factors inhibit mergers or cause them to fail? What are the differences between mergers that combine co-equal organizational partners and those where one agency essentially takes over another?[28] In each of these cases, from what quarters do the entrepreneurial initiatives arise and what makes the difference between an agency that goes under and one that is salvaged by a merger? What are the strategies entrepreneurs use to gain acceptance of a merger by board members, staff, sponsors and others associated with each of the agencies involved?

Mergers are an important nonprofit sector process, particularly where the support base has declined and service systems are overextended, or where it is desireable to save an agency with valuable assets or programs but weak finances or management. Yet, the circumstances, issues and motivations surrounding nonprofit mergers probably vary considerably from those associated with consolidations in the business or government sectors. Thus, given the intimate connection between organizational restructuring and successful adaptation to changing conditions, research on this category of nonprofit entrepreneurship would be of obvious value to managers and policymakers.

Entrepreneurship and Management

Entrepreneurial activity is characteristically a response to important changes in the economic or social environment or to serious problems encountered within a particular organization. In case studies, I found that entrepreneurship is almost always associated with some problem that needs solving.[29] Indeed, it is commonly stimulated by an organizational crisis. Thus, it is logical to ask - what is the place of the entrepreneur in management? Does he or she serve a purpose only in times of trouble or turbulence or just when an organization comes into being or undergoes a major change? Is it necessary to replace entrepreneurs with other, less dynamic managers as the organization settles down to a routine? These are troubling questions to students of the life cycle of organizations.[30] And they are particularly troubling for those concerned with managing nonprofit organizations. Must an organization be allowed to stagnate before it becomes ripe for the entrepreneurship necessary to induce necessary change? Is there a way to build entrepreneurship into organizations so that they can anticipate and adapt to change in a controlled way rather than have to risk and endure periodic crises? And, in relation to an issue raised above, can such built-in entrepreneurship reduce the dependence on formation of new nonprofit organizations to respond to societal needs in times of expansion?

Many of these questions have been addressed by scholars concerned with business organizations. For example, Peterson discusses a number of structural devices for building entrepreneurship into organizations through franchising, contracting, entrepreneurial departments, and by making the organization more entrepreneurial in its culture and philosophy.[31] "Intrapreneuring" is a popular new term for encouraging entrepreneurship within corporations.[32] A related development aimed at anticipating and adapting to external change, by business organizations and recently by nonprofit organizations and associations also, is the adoption of regimes of strategic management.[33] But rather than substituting for entrepreneurship, successful strategic management has been found to depend on it.[34] Thus, a key research question is how the strategic management process now being implemented in many nonprofit agencies can be adapted to accommodate and encourage the entrepreneurial energies necessary to conceive and implement desired innovations.

The Care and Feeding of Nonprofit Entrepreneurs

Given the limits to pecuniary reward in the nonprofit sector, some scholars have speculated that the supply of nonprofit entrepreneurial talent is necessarily very limited, *i.e.*, it is restricted only to those few with other motives.[35] This is a research question, however, that has not been carefully studied. Indeed, it is part of a broader unresolved issue of whether entrepreneurial talent is intrinsically rare or whether it can be cultivated with the right set of incentives.[36]

Casual empiricism suggests that non-pecuniary motivations are common and potent, and that entrepreneurial ventures and talent abound in the nonprofit sector. Whether the level of entrepreneurial activity is "adequate", in some sense, is an open question. Still, the importance of entrepreneurship to the nonprofit sector suggests that there may be substantial value in finding ways to identify, encourage and train potential nonprofit entrepreneurs.

There is substantial disagreement, however, even in the business sector, about whether potential entrepreneurs can effectively be identified and whether the skills necessary for successful entrepreneurship can be taught. As Peterson documents, McClelland and his associates answer these two questions in the affirmative, while other scholars disagree.[37]

If we assume, however, that potential nonprofit entrepreneurs can be identified and trained, and that the supply of such entrepreneurs is elastic, then three areas of research suggest themselves: First, if potential nonprofit entrepreneurs are identifiable, then the variables needed to screen for such individuals, which are probably different from those pertaining to business entrepreneurs, must be isolated and operationalized. Second, if entrepreneurship can be taught to those with the talent, then research must identify the curricula appropriate to this task. Elsewhere, I have suggested that problemsolving skills, strategic thinking, knowledge of politics and organizational processes, principles of negotiation, marketing and grantsmanship, and case studies of nonprofit entrepreneurial experiences would probably be useful here.[38] Third, if the supply of entrepreneurs is potentially elastic, then research is needed into the economic and organizational incentives necessary to encourage the development of this supply. In line with the structural organizational alternatives mentioned earlier, this would include the development of organizational policies and environments that reward risktaking and minimize constraints that inhibit new ways of doing things.[39]

CONCLUSION

In this review, I have suggested that entrepreneurship, in its generic sense, is integral to the proper functioning of the nonprofit sector, yet this phenomenon is poorly understood. I have identified six areas where such research may be useful. These include study of the similarities and differences between nonprofit entrepreneurship and that in other sectors; the contributions of an entrepreneurial perspective to the development of economic theory of the nonprofit sector; the role of entrepreneurship in social change; entrepreneurship as it relates to the structural adaptation of nonprofit organizations; the relationship of entrepreneurship to nonprofit management; and development of the supply of nonprofit entrepreneurs. The newly awakened interest in nonprofit entrepreneurship is a hopeful sign that this process will become better understood and that research can result in policies to enhance the functioning of the nonprofit sector.

Notes

[1] Schumpeter, 1949.

[2] Peterson, 1981.

[3] See Young, 1983.

[4] McClelland, 1973.

[5] See Young, 1983.

[6] *ibid*.

[7] See Young, 1987.

[8] *ibid*.

[9] James and Rose-Ackerman, forthcoming.

[10] *ibid*.

[11] See Young, 1983.

[12] *ibid*.

[13] As described by Schlesinger, 1985, the nonprofit's "...emphasis on nonpecuniary rewards represents simply a substitution for monetary benefits and not higher costs. They are not therefore any less efficient than their proprietary counterparts; the nondistribution constraint has simply induced a sorting of managers based on their preferences for monetary reward."

[14] Rose-Ackerman, 1986, demonstrates that modeling nonprofits as having a homogeneous economic objective, such as revenue maximization, yields an incorrect view of how these organizations react to changes in the level of governmental support. She shows that such behavior must be understood in terms of the idealogical beliefs of both nonprofit managers and philanthropic donors.

[15] James, 1986.

[16] This situation is quite parallel to that for economic theory in general. As noted by Peterson, 1981: "...the classical economists assumed a perfectly rational and competitive market where, in effect, each actor was entrepreneurial, but to a trivial degree. Schumpeter assumed quite a different political economy, one in which the routines of

business practices, sunk costs in established processes, consumer habits, laws, values, and social conventions all conspired against the minute entrepreneurship implicit in classical economics."

"To overcome these barriers, Schumpeter asserted, it took a person with unusual traits of character, a combination of the will to found a private kingdom, a drive to overcome all obstacles whether human or physical, and a joy in creating, getting things done, and exercising one's ingenuity."

Nelson and Winter, 1982 point out that: "Schumpeter stressed innovation as deviation from routine behavior, and argued that innovation continually upsets equilibrium." Thus, in a non-equilibrium, routine-driven world, and in one where adaptive rather than comprehensively rational behavior is assumed, the study of entrepreneurship may provide insights not only into the appropriate behavioral objectives but also into the behavioral process itself.

[17] See Young, 1983.

[18] See Douglas, 1983, Hansmann, 1986 and Weisbrod, 1986.

[19] Legoretta and Young, 1986.

[20] See Young, 1985.

[21] See Nelson and Winter, 1982.

[22] See, for example, the case of the Lower East-Side Family Union in Young, 1985.

[23] For statistical information see Hodgkinson and Weitzman, 1986.

[24] For examples of this process see Young, 1985.

[25] For an account of a nonprofit merger see the Jewish Board of Family and Children's Services case in Young, 1985. For an account of an agency turnaround, see the case of Greer Children's Services in Young, 1985.

[26] See Peterson, 1981 for an account of the conventional view. See Young, 1985 for examples of entrepreneurship involving turnarounds and mergers.

[27] For examples of spin-offs, see the cases of Harlem-Dowling Children's Services and the Child Welfare Information Service in Young, 1985.

[28] See the case of the Jewish Board of Family and Children's Services for a merger of co-equal partners and the case of Greer Children's Services for an example of takeovers, in Young, 1985.

[29] See Young, 1985 and forthcoming.

[30] See Kimberly, Miles and Associates, 1980.

[31] Peterson, 1981.

[32] See Kanter, 1983.

[33] See, for example, United Way of America, 1985.

[34] According to Hanna, 1985: "Many leading corporations have been engaged in creating flexible "entrepreneurial networks" of small, self organizing business units that employ participative forms of leadership...The corporation is slowly being transformed from a hierarchical pyramid into a loosely connected system of individual entrepreneurs who collaborate in solving their strategic problems at the grassroots level.... The strategically managed organization...[is]...a new type of organization especially good at fostering strategic change and entrepreneurial innovation." If the example being set by the corporate business sector is correct, it may point the way for development in the nonprofit sector. But the models for accomplishing this must necessarily be specially designed to the nonprofit context.

[35] For discussion, see Rose-Ackerman, 1986.

[36] See Peterson, 1981.

[37] *ibid*.

[38] See Young, forthcoming.

[39] *ibid*.

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WORKING DRAFT

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COMMERCIAL ACTIVITIES IN HUMAN SERVICE ORGANIZATIONS

by

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COMMERCIAL ACTIVITIES IN HUMAN SERVICE ORGANIZATIONS

Judging from recent newspaper accounts, a massive transformation is under way in the nation's private, nonprofit sector, with nonprofit organizations forsaking their traditional activities to rush headlong into the world of business. Headlines such as "The Nonprofits Drop the 'Non'";[1] "Arts, Education Groups Now Making Millions";[2] "Academia Using Strategy from the Corporate World";[3] and "Cultural Institutions Join Money Hunt"[4] convey the idea that nonprofit organizations have abandoned their social and charitable mission and joined the Wall Street business corps. Based on such perceptions, advocates for the small business community have raised a storm of protest claiming that nonprofit organizations are beginning to compete unfairly with tax-paying businesses in traditional business fields.[5]

But how pervasive is this nonprofit penetration into the world of business? Unfortunately, most of the discussion to date has had to rely on anecdotal information portraying the business successes of one or two select agencies. What has been lacking, however, is systematic, empirical data that can put these anecdotes into context and portray more fully the extent and character of business activity in the nonprofit sector.

Fortunately, data collected as part of The Urban Institute's Nonprofit Sector Project, a national, longitudinal study of more than 3400 nonprofit human service agencies, exclusive of hospitals, higher education institutions, and private primary and secondary schools, make it possible to remedy this shortcoming.[6] What these data suggest is that the movement of nonprofit organizations into new business ventures is far less pervasive or significant than recent newspaper accounts would suggest. At the same time, the data show that nonprofits are increasing their reliance on at least one type of commercial income that has been used extensively in the past, but that has been largely overlooked in recent accounts—namely, charging clients fees for service. In other words, there are really two very different types of commercial activity occurring within the nonprofit sector, each having a somewhat different impact upon the financial base of the sector. The purpose of this article is to shed some empirical light on these activities and thus provide a better understanding of the commercial nature of nonprofit activity.

To do this, the discussion here falls into four sections. Section I defines more completely the two types of commercial activities in which nonprofits are involved -- "ancillary business activities" and "fee-for-service activities". Section II then draws on our survey of nonprofit human service agencies to document the extent, incidence, and recent changes in the ancillary business activity of nonprofits. Section III does the same for fee-for-service activity. A final section discusses the implications of these findings.

I.
What Is Commercial Activity?

Recent press accounts and government documents on the growth of nonprofit business activity have tended to lump together a number of different activities that deserve to be treated separately. In particular, it seems reasonable to differentiate between two quite different types of commercial activity in which nonprofit organizations can engage. The first type, which has received the most attention, involves the sale of products that are ancillary to a nonprofit organization's central mission. Examples here would include nonprofits that take advantage of their computer systems to market data processing services, or organizations that sell travel services or insurance to their employees or others at a profit. Also included would be museum gift shops that market replicas of art objects and other items. The central characteristic of these activities is that the nonprofit organization develops a "product" that is ancillary, though not necessarily unrelated, to its basic mission, and then markets this product for a profit. We will refer to this as "ancillary business activity."

Far different from this kind of ancillary business activity is the more traditional nonprofit practice of charging clients fees for the services they receive. Such fee-for-service activity has long been a characteristic feature of the private, nonprofit sector. It includes tuition fees in private colleges and universities, payments for day care services, hospital stays, and the like. In some cases, clients do not pay the full cost of the services they receive but rather benefit from income that nonprofits receive from private charitable sources, third-party payers, or government grants. In many cases, agencies operate sliding fee scales and offer services at lower cost to those in greatest financial need. This form of activity differs quite markedly from the "ancillary business activity" mentioned above. Yet, despite its long history, we know very little empirically about fee-for-service income and are therefore in a weak position to gauge its extent or character. Indeed, in most accounts of the commercial activity of nonprofit organizations this traditional fee-for-service activity is overlooked. It is therefore important to put these two types of activity next to each other and to see which is the more important and how extensively each is used.

II.
Ancillary Business Activity

Respondents to our survey of nonprofit service agencies were asked to record the share of their income coming from each of ten different sources of support, including government, individual giving, United Way, corporations, foundations, religious and federated giving campaigns, fees, endowment, and other. The "other" category included both sales of products and special fund-raising events such as raffles, banquets, or testimonial dinners. If anything, this "other" category therefore probably overstates the extent of "ancillary business activity" within the nonprofit sector. Using these data, how extensive was this activity? What proportion of the income of the nonprofit human service sector comes from this source? What share of the agencies utilize this type of income? Which types of agencies are most dependent on these revenues? And what are the recent trends in this type of commercial activity? The purpose of this section is to answer these questions.

Extent

Despite the recent flurry of interest and the growing chorus of small business complaints, the extent of nonprofit involvement in ancillary business activities is relatively small. As of 1981, only 6 percent of total nonprofit human service agency income came from ancillary business activities and special fund-raising activities combined, as reflected in figure 1. What is more, among the agencies in our study that provided complete financial information for the period 1981 to 1983, little significant change occurred in the extent of income originating from such business activities.

Not only are the dollars generated by ancillary business activities rather limited, so are the numbers of agencies involved in such activity. As of 1981, only 22 percent of the agencies reported income either from special fund-raising events or the sale of products. While the percentage of agencies receiving this type of income grew somewhat between 1981 and 1983, the growth was quite limited. Less than one-third of the agencies (30 percent) reported some tie to either business income or special fund-raising activity by 1983.

Incidence

Not only is income from business activity rather small, it is also concentrated in particular portions of the nonprofit sector. This is evident in table 1, which records the share of income originating from each of five principal sources of support for different types of nonprofit agencies. As this table makes clear, for only two types of agencies--those engaged in employment and training and those engaged in arts and culture--does business income constitute more than five percent of agency income, and even for these agencies, business income is far from the dominant source of support. As of 1981, therefore, business income remained confined, essentially, to the arts sector and to agencies primarily providing employment and training programs.[7]

Trends

While business income comprises a far smaller share of nonprofit income than is sometimes assumed, this income has increased in recent years, as nonprofits have struggled to cope with government cutbacks. In particular, while total nonprofit income grew by 6 percent between 1981 and 1983, income from the combined sales/other fund raising category grew by 23 percent (see table 2). However, this percentage figure is somewhat misleading in view of the small base from which this sales/other income began. In fact, of the $57,300 in new income that the "average" agency in our sample generated to offset losses from government funding, only $7900, or 14 percent, came from either product sales or special fund-raising events.

What is more, only a small segment of the sector reported signficant increases in actual dollar terms from this source of income. Employment and training agencies, culture/arts/recreation organizations, and legal services/advocacy groups, each earned more than $10,000 in new revenues from the sale of products or special fund-raising events. But all other types of agencies earned much less, and in fact, two types of agencies--housing/community development and multiservices--actually lost revenues from this source of support. Clearly, ancillary business activity has not proved to be the most promising way of increasing nonprofit agency revenues.

Responses to a question about the extent to which nonprofit organizations had established for-profit subsidiaries underscore this point. Only 7 percent of the agencies responding to this question in 1983 indicated that they had set-up such subsidiaries in the prior two years. And only 16 percent indicated that they were even contemplating such action over the next two years.

In short, to the extent that "ancillary business income" is what observers have in mind when they talk about the growth of commercial activity in the nonprofit sector, this activity remains quite limited both in scope and scale. Such income constitutes a rather small share of the total revenues of the sector and affects less than one-third of the agencies. Only in two fields does this income represent a signficant source of support, and even here it is far from dominant.

III.

Fee-for-Service Income

Extent

While the ancillary business activity that has attracted so much attention in recent years accounts for only a relatively minor share of nonprofit income, the other type of nonprofit commercial activity--charging fees for the provision of services--is quite substantial. As reflected earlier in figure 1, such fee income accounted for 28 percent of all nonprofit human-service agency income in 1981. This made it the second most important source of revenue for the nonprofit sector, behind government but ahead of private giving. What is more, this source of support was extremely widespread: nearly 70 percent of the agencies reported receiving income from this source--higher than for any other single source.

Incidence

Not only is fee-for-service income important for the sector as a whole, it also is important for the many and varied components of the sector. In fact, for six of the ten types of agencies cited previously in table 1, fee income ranked either first or second among the sources of nonprofit income. In no service field does the share of fee-related income fall below 10 percent. Fee-for-service revenue plays a particularly large role in the funding of agencies engaged in non-hospital health care, institutional care, education and research, and arts and culture. In fact for health care agencies, fee income actually comprised over half of all support.

Trends

Not only did fee income enter the 1980s as a major source of nonprofit income, it also proved to be a mainstay in coping with budgetary pressures of the early 1980s. As government revenues declined, nonprofit agencies turned overwhelmingly to fee-for-service income to make up for budgetary shortfalls. Between 1981 and 1983, fee income rose by 21 percent, raising approximately $33,900 in new revenue for the average nonprofit agency in our study (see table 2). This growth in fee income represented about 60 percent of all new revenues to the sector and was approximately four to five times more important than income from product sales in allowing nonprofits to recover from government funding cuts in the early 1980s.

Morover, this increase in fee income was quite widespread throughout the nonprofit sector. All types of agencies in our study reported increases in fee income and only one type of agency--those providing housing and community development services--reported a gain of less than $10,000.

IV.

Conclusions and Implications

If observers of the nonprofit sector define "commercial activity" to mean the sale of products or some other type of entrepeneurial venture, then nonprofit organizations, in the aggregate, are not particularly commercial in their method of operation. Only a small percentage of nonprofit agencies engage in such ancillary business activity, and the revenues generated by these activities are relatively meager.

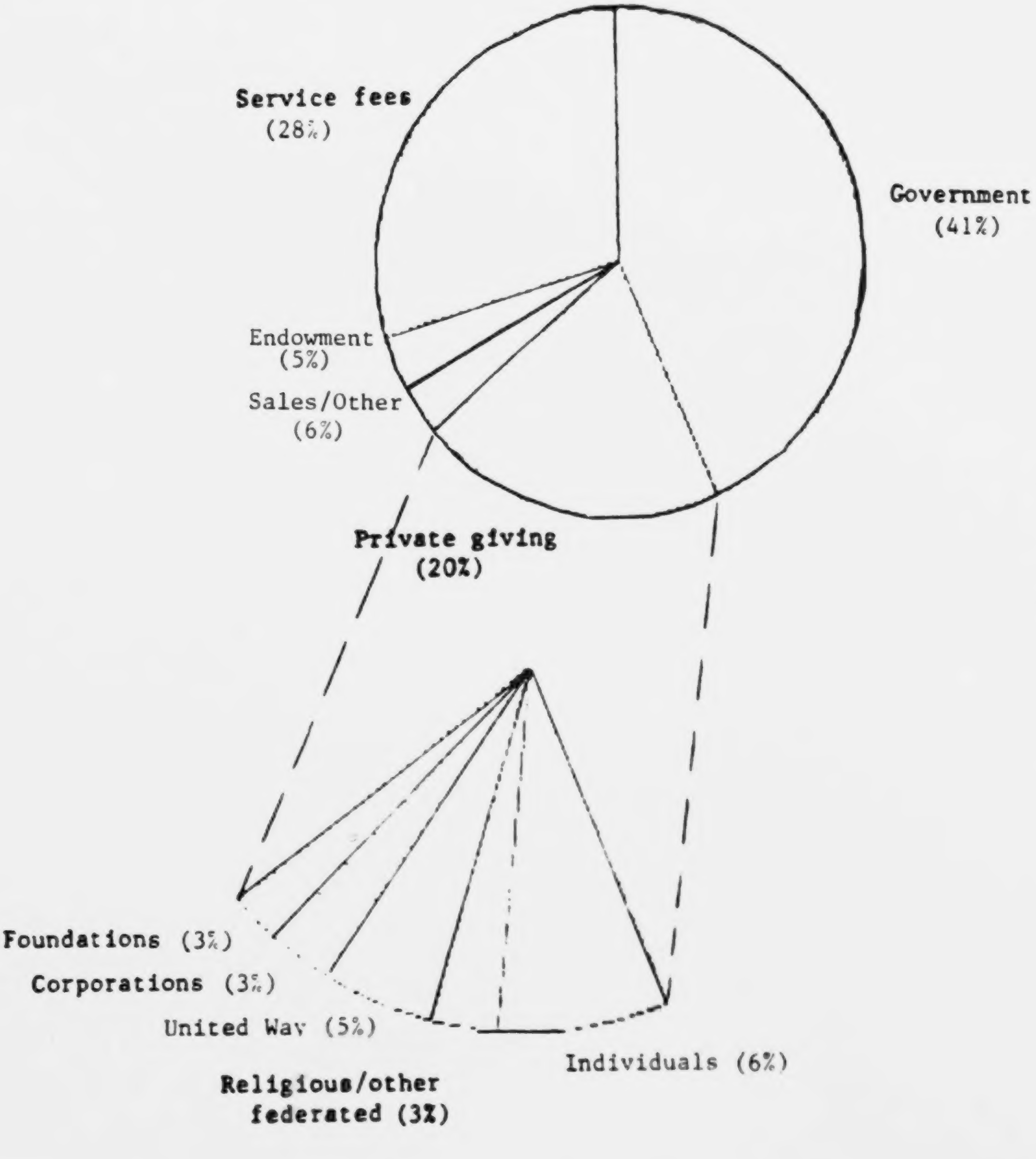
If the definition of "commercial activity" is expanded to embrace fee-for-service payments, however, the nonprofit sector has a massive commercial involvement, and has had for decades. What is more, this fee-for-service activity is growing at an extremely rapid rate, as nonprofits have lost government support and been forced to turn elsewhere for income. In the process, serious questions are raised not about the sector's intrusion into traditional commercial arenas but about its ability to continue to serve those in need. In fact, based on the data reviewed here, there is probably more reason for nonprofits to be concerned about business penetration into traditional areas of nonprofit activity and creaming off clients who are able to pay for services than for-profit businesses to be concerned about nonprofit penetration into the for-profit business arena, thereby providing services at tax-subsidized, below-market costs.

At the present time, however, too little is known about the most significant form of nonprofit commercial activity, namely, fee-for-service arrangements. We do not know, for example, how nonprofits set their fee structures, what share of costs they cover through their fees, how sliding fees operate in practice, and how nonprofit fees compare with for-profit ones in the same fields. All of this suggests that the recent interest in commercial involvement on the part of nonprofit organizations has tended to focus on the wrong phenomenon. Despite their novelty and ingenuity, the real growth area for nonprofits, and the one with the greatest potential for altering the basic character of the sector, is not ancillary business activity, but fee-for-service income. It is here, therefore, that the need for additional research is greatest.

Figure 1

SOURCES OF INCOME FOR
NONPROFIT HUMAN SERVICE ORGANIZATIONS,
1981

(n = 2,304)



Source: The Urban Institute Nonprofit Sector Project, round I survey.

Table 1

SOURCES OF INCOME FOR NONPROFIT AGENCIES BY TYPE OF AGENCY 1981

Type of Agency	Percentage of Income from Each Source				
	Government	Service Fees	Private Giving	Endowment/ Investment	Sales/ Other
ALL AGENCIES	41%	28%	20%	5%	6%
Primary Service Area					
Mental health	67	23	7	3	*
Housing/commmunity development	62	19	16	2	1
Legal services/advocacy	62	10	23	1	4
Social services	57	13	25	3	2
Employment/training	55	10	13	3	20
Institutional/residential care	51	32	11	3	2
Multiservice	47	22	25	3	3
Non-hospital health care	31	51	13	2	3
Education/research	28	31	25	9	4
Culture/arts/recreation	15	27	30	11	16

*Less than one percent.

NOTE: Percentages may not sum to 100 because of rounding.

SOURCE: The Urban Institute Nonprofit Sector Project Survey, round I.

Table 2

Changes in the Average Income of Nonprofit Agencies, by Source of Funding
1981 - 1983

Inflation-adjusted Data
(n = 1,508)

	1981	Change, 1981-1983	
Source of Income	Income	Amount	Percentage
Government	$288,243	-$12,939	- 5%
Service fees	164,119	+ 33,880	+21
Private giving	168,694	+ 9,848	+ 6
Endowment	25,843	+ 5,630	+23
Sales/Other	34,234	+ 7,927	+23
TOTAL FUNDING	$680,271*	+$41,270*	+ 6%

*Individual sources may not add to totals because of minor discrepancies in reporting by responding agencies.

Note: The 1981 revenue data reported here are slightly different from the data reported in figure 1 because these data are based only on respondents that answered both the first- and second-round surveys, thereby providing us with financial information to 1983. Data in figure 1 are derived from all respondents to the initial round I survey covering the period 1981 to 1982.

Source: The Urban Institute Nonprofit Sector Project, round I and round II surveys.

Notes

1. New York Times, November 24, 1985.

2. Washington Post, November 24, 1985.

3. Washington Post, November 25, 1985.

4. Washington Post, November 26, 1985.

5. U.S. Small Business Administration, "Unfair Competition".

6. In 1981, The Urban Institute undertook a major project to examine the scope, structure, and funding base of the private, nonprofit sector in the United States. This project involved work at the national level and in sixteen local field sites selected to provide a reasonable cross-section of the nation in terms of geographic region, size of community, socio-economic condition, and level of philanthropic activity. The study focused on nonprofit human service organizations, such as day care centers, programs for the elderly, youth groups, museums, art galleries, symphony orchestras, YMCAs, job training centers, and similar types of service providers. Hospitals and higher education facilities were excluded from the study because information was already available on these types of organizations from other sources. Primary and secondary schools were excluded because the finances of the school are often intermixed with those of the religious institutions with which many are affiliated. The findings reported here draw chiefly on the results of two mail surveys administered to over 7000 nonprofit, public-benefit, service organizations located in our sixteen study sites. The first of these surveys was conducted in late 1982 and early 1983 and yielded over 3400 responses. A follow-up survey was then administered in late 1984 to all first-round survey respondents. A total of 2300 agencies completed the second questionnaire. The findings of these two surveys thus provide a picture of how a cross-section of nonprofit agencies throughout the country have been affected by recent changes in public policy and how they have responded to financial pressures created by such changes.

7. Arts organizations receive commercial income through museum gift shops or the sale of concert/performance memorabilia. Employment and training programs, particularly if they are designed as rehabilatative or instructional workshops, may sell the products produced by their clients through commercially-oriented outlets.

SECTION ELEVEN:
HISTORY AND VALUES

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THE PUBLIC AND INDEPENDENT SECTORS:
SEPARATE STRATEGIES OR PARTNERSHIP?

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Prepared for

History and Values Panel

March 19, 1987

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I have been asked to make a few observations as an historian that might be appropriate to the overall theme of this year's program--"The Constitution and the Independent Sector." I come to the assignment as an historian who has sought to trace and understand the history of human services in America, the development of public policies in varied welfare fields, and the evolution of the profession of social work. First, I understand this occasion to call not for a monographic examination of some special topic in which I happen to be currently interested, but for a more general and speculative (perhaps even discursive) essay on the larger question of the relationship, historically, between the elaboration of public policies in the welfare realm and human service programs in what has come to be called the independent sector (or at different times in the past, the voluntary or private, not-for-profit sector). Second, I understand the audience for this essay to be composed of only a handful of historians (who know the outline of the story as well as or better than I), and primarily of scholars from sister disciplines, and of leaders and practitioners drawn from a variety of agencies and institutions active in the independent sector representing not only experience in welfare but also in health, the arts, culture and foundations, great and small. It is the latter miscellany of persons I intend primarily to address.

* * * * *

There persists in the imagination of lay citizens the notion that America's unique contribution to human welfare derived from initiatives pursued by citizens organized in private associations, as opposed to actions by the state. Many editors, ministers and politicians (the latter especially in even-numbered years) have been given to the public celebration of the voluntary spirit of charity that early settlers presumably brought with them to the new world and that the founding fathers confirmed to be at the heart of the republic. The chief reference cited on such occasions is Alexis De Tocqueville. In such a reading of American history it is implicitly assumed that this cherished tradition of voluntarism is one major factor that has set the new world apart from the old. Such an interpretation partakes, therefore, of that grand theory, still so much alive in our own day, that proclaims a providential design, a manifest destiny, for the American republic to be an exemplar to humanity and to posterity of human liberty, free government and equality of opportunity. Essential to the progress of these principles was the perseverance of certain ideals--self-reliance, rugged individualism, industry, thrift, ambition and spontaneous assistance to one's neighbors in their times of need. Habitual dependence upon others or upon the state was to be avoided at almost any cost.

In historic fact, throughout the long years of the colonial era, the settlers depended hardly at all on efforts in the voluntary sector to relieve the plight of persons in need through no particular fault of their own--widows and orphans, incompetent aged persons, the physically and mentally handicapped, victims of natural catastrophe (fire, flood and plague). Assistance to such needy persons, unable to care for themselves, derived in the first instance from the functionally extended family (defined by kin relationship and not confined to the nuclear household) and, in the absence of effective kin, became the responsibility of local government--parish, town or county. Such were the requirements of the Elizabethan Poor Law (1601)--an arrange-ment that persisted, long after American secession from the British Empire, well into the twentieth century. There were annual charity sermons in most parishes and congregations, to be sure, in response to which there were gathered modest funds for the temporary relief of select church fellows (such forms of assistance took on special significance in dissenting churches such as the Quakers in Pennsylvania); here and there were founded non-public institutions to shelter orphans and the aged. But the much-vaunted spirit of voluntary charity played the smallest role throughout the colonial era and into the nineteenth century.

It was rather local government, using funds derived from a general property tax, that provided assistance to the needy. Such assistance was most often provided to persons in their own homes--widows with dependent children, and aged women and men still able to care for themselves with a bit of relief in cash or in kind; or, when the needy could not care for themselves--as was the case with orphans and half-orphans, neglected children or truly ancient and incompetent persons--modest grants were devoted to "foster" families in which children, the elderly, the blind and the halt, and the mentally "distracted" were "placed."

Without belaboring the point, it must be emphasized that this system of care--at modest and even niggardly, yet withal sufficient, levels (because the tax resources to be tapped were narrow and because taxpayers were ever prudent in the commitment of capital funds to non-productive purposes)--persisted in rural and village America essentially until the New Deal federalized the public obligation. Because the study of the American past has come to be dominated by an urban (which is also to suggest an eastern) bias, it is important to note that until the relatively recent past, most Americans lived in social environments in which local government remained the effective unit for the provision of welfare assistance. The arbitrary figure of 2,500 population that the census defined as the line demarking urban from rural had little functional bearing on systems of public assistance. Local overseers of the poor continued over the generations to be the primary source of family assistance. It was an obligation they fulfilled cautiously, always with deference to the interests of owners of taxable property whom they represented; but when informal networks sufficed for the gathering of information on the reality of need and on the absence of family members able to contribute to the care of kin, public assistance continued to be supplied in a roughly efficacious way, even in communities substantially larger than 2,500.

Historical accounts that described the shrill outcry in bourgeois America against all forms of "outdoor" public assistance beginning in the nineteenth century cannot be judged inaccurate, but they did tend to exaggerate the authority of rhetoric and ideology, and to take words for deeds. Surely the stated preference in Victorian urban America for "indoor" over "outdoor" care and the all-but-universal distaste for **all** forms of public assistance as being inherently inefficient, costly, demeaning and corrupt carried great weight. The almshouse was intended to serve as a deterrent to pauperism, while application of the standard of "less eligibility," which insisted that public assistance be provided only at levels below prevailing norms of subsistence of the poorest among the self-supporting in a community, also aimed at discouraging applicants for relief. But America did not go as far in these regards as did its model in such affairs--England following the poor law reform of 1832. Relief of human need continued to devolve upon local government and upon state government, as reflected in the creation of public institutions for the insane and the handicapped, for example. Later in the century, moreover, when in many cities politicians responsible to immigrant and working-class constituencies (groups particularly vulnerable to need) came into power, the awarding of public assistance reached more generous levels than had pertained under the governance of stern Yankee elites. In places as remote from each other as Boston and the mining communities on Minnesota's Iron Range (Hibbing, Chisholm, Ely, Eveleth, etc.), such politicians dispensed funds formally through government and informally through political machines with such casual humanity as to appear as corrupt extravagance in the judgment of genteel (and tax-paying) folk.

All of this in way of reminding ourselves, in quick overview, that oft-stated declarations of the primacy of volunteerism in American welfare tend to arise more from ideological predisposition than from a careful analysis of empirical evidence. The relief of need through varied forms of public assistance persisted as the chief source of alleviation.

Until the 1930s, that obligation was carried almost entirely by local and state governments. I write "almost" not only to hedge, a habit to which scholars are naturally inclined, but to leave room for the observation that for the veterans of every war, beginning with the War for Independence and extending to the present, the federal government provided generous pensions that served in fact, if not in law, as old age assistance to all those who had rallied to their flag. No needs test or morals test was required: to have served the nation's cause in time of war was sufficient to prove one's "worthiness"; by extension, one's dependents and survivors were also included. With that major exception, the welfare obligation was left to local and state government under the federal constitution, the tenth amendment to which was taken, over the generations, to read that the obligation to promote health, public order and welfare was reserved to the states and its subdivisions. Until the twentieth century, the federal government was deemed to enjoy no such general "police power."

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Emerging in the late colonial and early national eras and developing at an accelerating pace throughout the nineteenth century came the proliferation of societies and institutions in the independent sector devoted to diverse welfare agendas. Many were initiated by affluent and powerful elites drawn from commerce, finance, industry and the professions. Others came at the instigation of church leaders and congregations and were designed either to provide material solace to needy co-religionists or to missionize the unchurched. Some wealthy individuals established their own family philanthropies, which often reflected the personal, even idiosyncratic, will to be of service in alleviating some particular affliction or some special population at risk. The motives driving such philanthropic efforts were varied and mixed: some hoped to impose order where class antagonism threatened anarchy; some sought to rescue the lost, to bring them to salvation and to regeneration; some hoped to instill solid bourgeois and republican virtues--work, thrift, temperance--in the "dangerous classes" and thus to lead the undeserving in the path of righteousness and the way of worthiness; others reached out to the sick, disabled and wretched out of Christian compassion; and many sought merely to provide support to the disadvantaged through small, daily, practical acts of charity.

Their means were as varied as their intents. Many benevolent societies created institutions, protected residences for vulnerable populations. There were Magdalen homes for "fallen" women; societies to provide shelter of abandoned or vagrant children ("homes for little wanderers" as they were sometimes designated); homes for "ancient" and "respectable" women and men who had fallen on hard times after a lifetime of earnest labor, thus to provide them asylum separate from the "unworthy" immigrant poor who were crowded into public almshouses; houses of refuge for delinquent, neglected and abused children and youth; orphanages--sectarian, religious and secular--which came to house not only orphans, but half-orphans, and children deemed to be neglected by their parents.

Other private efforts were devoted to provision of non-institutional human services: Sunday schools that taught not only the Bible, but the three R's with heavy doses of moralism; children's aid societies that placed orphaned, dependent and abandoned children in respectable (most often western and rural) homes; medical dispensaries in poverty neighborhoods; sewing rooms and laundries where needy women could prove their willingness to work and thus qualify for assistance; charity agencies which offered assistance, more often in kind (groceries, rent, fuel) than in cash to clients who were able, after careful investigation, to prove both their need and their "worthiness." Such charity societies often sponsored "friendly visits" on the part of respectable ladies of the guild, who offered advice on housekeeping and childrearing and a cheery smile for the depressed and deprived. (The depraved were another matter.) Acting on the rule of most charity organization societies--"not alms, but a friend"--financial assistance was theoretically to be left to public overseers of the poor.

But practice often departed from principle. Thousands of charities continued to dole out relief in cash and in kind to thousands of desperate persons. Ideally the responsibilities of public and private agencies were to be sharply separated; in fact, they often overlapped, for the political and managerial means were not at hand to maintain the separation. Some houses of refuge, for example, founded by philanthropic initiative, and holding charters authorized by state legislatures, received annual subsidies from government agencies. In like fashion, counties and states quite regularly appropriated funds for the maintenance of private orphanages or special institutions for the physically or mentally handicapped. Local magistrates might place an orphan or dependent half-orphan in a public orphan asylum or, with equal likelihood, in a private philanthropic or church-sponsored home for orphans. Later, in the early twentieth century when juvenile courts came into existence, troubled youths might be returned to their families under the watchful eye of an agent from a private child protection society or under the surveillance of a court probation officer (some of whom were borrowed from the staffs of private agencies in the early years); or--if institutionalized--the offending youth might be placed in a state reform school or in some protected environment run by an agency, secular or sectarian, in the independent sector. It was also the case that prominent leaders in charity organization societies often served on state boards of charities, whose function it was to oversee public institutions and services.

All of this is to say that the barrier between the independent and the public sectors was regularly breached in the nineteenth century. And no one made much of a fuss about these casual arrangements, for there was an amateur quality to most welfare work, regardless of the auspices under which it was conducted. Civil service was not to prevail until very much later. Governors were on the job but parttime; state legislatures met briefly at infrequent intervals. Bureaucratic controls were slow to develop; state boards of charities enjoyed but advisory powers for most of the century; even great charities that presumed to be "scientific" in managerial procedure were staffed by officials too few in number, too poorly paid, inadequately trained, and too high in turnover, to establish effective and efficient control over their clients.

Before leaving the subject of the relationship of the public and independent sectors in the nineteenth century, a brief caveat may be in order regarding the definition of agencies presumed to be included in the independent sector. Most historians and practitioners today limit inclusion--and therefore their attention--to institutions designed by "third" parties to provide assistance and service to the needy: benevolent societies, children's aid societies, charities, settlement houses. In historic fact, many persons and families at risk avoided elite agencies of the host society, in some measure out of pride and the reluctance to throw themselves on the mercy of others; in some part from a revulsion against the intrusive, patronizing and controlling activities they had to suffer at the hands of their presumptive betters. To ask for public assistance, to beg for charity, to take the road over the hill to the poorhouse were paths to be considered only as a last resort. Dependence was first on support (economic, psychological, social) from family, extended and fictive kin, friends and neighbors, co-religionists and "landsmen." In Catholic and Jewish immigrant communities, help came from parish and synagogue, and from myriad societies created by the poor themselves within these religious and ethnic contexts. Left/liberal historians have made much of the pluralism and openness that characterized settlement houses in the early decades (and that surely is a story deserving of attention), but have all but universally neglected the equally significant and engaging experience of neighborhood institutions founded and sustained by immigrant groups themselves--Slovenian National Homes, Polish Unions, Sons of Norway, Daughters of Penelope, Jewish community centers, and so on and on. Such societies did for themselves, within their own communities, under their own control and in ways consistent with their own cultural traditions. That experience includes the welfare role of the black church in the rural South and in urban ghettoes, numerous mutual assistance associations created by immigrants or by laborers in the workplace and community outreach services of powerful Finnish cooperatives. Welfare historians have neglected these themes, and have clung to "top-down" institutional or policy modes of analysis. In more recent decades that neglect is evidenced in the difficulty granting agencies, public and private, have had when recognizing self-help groups serving the needs of alcoholics, the chemically dependent, battered wives, battering spouses, single parents, children of divorced parents (the list goes into the hundreds). Many of them, of course, have resisted establishing relationships with community chests and with human service professionals; their informality and self-conscious rejection of recordkeeping have made research difficult for scholars. How are we to count and weigh the diverse welfare programs in which all these groups engaged? They are not in the public sphere; but neither are they usually numbered among agencies in the independent sector. They have escaped our attention because they have existed outside our definitions.

That by way of digression--I hope not irrelevance. Back now to themes more central to this essay.

* * * * *

A recurring concern of welfare historians has been the degree to which and the ways in which social service associations and agencies, and their leaders, have influenced the formulation and execution of welfare policies in the public sector. What role did charity and neighborhood workers play in the "discovery" of the social roots of poverty, 1890-1920? Were the early settlement houses "spearheads" for progressive reform? Did social workers in the 1920s plant seeds for the New Deal through their agitation for old age insurance, unemployment compensation, work relief, public housing and the rights of labor? (Persons familiar with welfare historiography will recognize reference to: Robert H. Bremner, **FROM THE DEPTHS: THE DISCOVERY OF POVERTY IN UNITED STATES** [1954]; Allen F. Davis, **SPEARHEADS FOR REFORM: THE SOCIAL SETTLEMENTS AND THE PROGRESSIVE MOVEMENT, 1890-1914** [1967]; and Clarke A. Chambers, **SEEDTIME OF REFORM: AMERICAN SOCIAL SERVICE AND SOCIAL ACTION, 1918-1933** [1963].) The answer to these, and similar, questions was usually an implied, enthusiastic and progressive affirmative, although revisionist historians assigned motives of social control to many of the same events and developments. Many historians would see a decline in the influence of the human service professions on public policy over the past half-century or so. Scholars who have studied Social Security, for example, in the years since its passage in 1935, have conclusively demonstrated that the agenda for its enlargement and expansion in the postwar era was largely in the hands of the program's administrators and bureaucrats, who achieved their goals quietly and incrementally from within the system.

The story of mothers' assistance, when finally it is told at length and in full, will probably follow a more ironic line; for a chief initiative appears to have come from social movements, few of them linked to agents in the independent sector, whereas charity leaders aligned themselves in opposition, fearing that indiscriminate and undiscriminating assistance would lead to an unjustified and dangerous establishment of a presumed right to public assistance. Such charity workers, in effect, lost the battle but won the war, for the administration of programs of assistance to dependent children, once enacted, came quickly and uniformly to follow tactics of traditional casework and to enforce criteria of eligibility including not only a needs test but morals test as well (the latter assumed under expectations that recipients of assistance would maintain a suitable home). Mothers' assistance, that is, eliminated from benefits all such needy persons who could be "blamed" for their condition of dependency and established punitive standards that persisted in federal ADC and AFDC programs well into the 1960s.

A related set of concerns bears on the question of whether social experiments launched by private welfare agencies were picked up, when they had proved successful, by public agencies. One can point to visiting nurses, visiting teachers (school social workers), probation and parole officers as illustrations of initiatives in the independent sector that were later folded into government programs.

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The Great Depression marked a watershed in the relationship of federal government to local and state government and in the relationship of the public and the independent sectors. The incapacity of voluntary agencies to meet depression-caused human needs, a failure that the community chest movement was forced to recognize by 1931-1932, meant that a division of function came to be agreed upon: government would care for economic need, through direct relief, work relief, general assistance, old age assistance, aid to the handicapped and to dependent children, social security, and later foodstamps, rent supplements, medicare and medicaid; agencies in the independent sector would be responsible for the delivery of human services.

The division, of course, could not remain that neat. The government itself offered elaborate services especially to burgeoning millions of veterans of the twentieth century's endless wars; and in the 1960s, for a time, social services were provided to recipients of AFDC by government social workers. And voluntary agencies which, it was imagined, were to be financed entirely or at least primarily by the contributions of philanthropically-motivated citizens, corporations, unions and foundations came, at an accelerated pace since the 1960s, to receive a major part of their financial fuel from public sources. By the 1980s, approximately three-fifths of all not-for-profit agencies received some support from governmental units, and approximately three-fifths of all revenues of such agencies in social service derived from federal government. The interpenetration is more direct and more extensive now than it was in the nineteenth century (when the public commitment came largely from state and local, not federal government), but the same pragmatic and casual arrangements would appear to have been at work in either case.

* * * * *

The implications of historical study for the elaboration of welfare policy in our day are not entirely clear--at least not to this social historian who has come, not easily or dogmatically I must confess, to a skepticism of the efforts of those who see the discipline of history primarily as a policy social science. Still, common sense inspires us to belief that it is better to now a bit about historical experience than to remain ignorant of the past. If such be the case, then it must be judged (as a senior colleague once wrote of a young scholar whose career he was encouraging)--that we have come a long way, but we have a long way to go. We have no study, or far too few, of a number of topics crying out for attention. No comprehensive study of charity as it evolved into family and children's services. No extended survey of community chest, united fund, united way. Nothing other than inside or anecdotal accounts of Alcoholics Anonymous and other informal self-help movements. No comprehensive historical analysis of those myriad religious and ethnic self-help community agencies that played such a large part in the lives of millions of persons who were so vulnerable to cultural exploitation and to the vagaries of the economy. No detailed analysis of the procedures through which orphaned, dependent, neglected and delinquent children and youth found their way into public or private institutions or into foster homes. No focused historical study of the interpenetration of the public and independent sectors beginning in the nineteenth century and extending, in different form and degree, into the present. No extended account of the enormous influence of the great twentieth century private foundations in guiding and financing research and practice in human service, and of their influence on the shaping of public policy. Some of these projects we know to be underway but much remains to be done.

It is on such a note of research still to be done that conventions of the academy advise us to conclude. The agenda of unfinished business is long and urgent. So be it.

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PHILANTHROPY AND SOCIAL VALUES

by

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American academic moral and social philosophy in this century has had strangely little to say on the subject of philanthropy. While there is some reason to think that this lack of interest in philanthropic matters is about to be reversed, it is by no means clear that a recent upsurge of attention paid by philosophers to the moral contours of charity will be sustained past the present moment. What would appear to be an overture to serious philosophical investigations of charitable behavior, may prove in retrospect to have been nothing more than a temporary departure from recent philosophy's traditional preoccupations.

For the first three quarters of the twentieth century the only effort by a professional philosopher to reflect analytically upon philanthropic activity was to be found in George Herbert Palmer's book *Altruism: Its Nature and Varieties*.[1] In two chapters of that work entitled respectively "Gifts" and "Defects of Giving" Palmer delineates the moral properties of the act of donation. There he argues that the giving of gifts represents "a higher stage of altruism"[2] in which the actor prefers the welfare of others to his own interests as demonstrated by a unilateral transfer of his goods to them. Palmer classifies the conditions of giving as grounded in the magnitude of need, the numbers of those in distress, and the possibility of rendering efficacious aid to them. He rejects gifts to those whose condition is beyond rectification. Furthermore he stresses that the act of philanthropy presupposes the accumulation of personal wealth through saving and requires a tactfulness on the part of the donor. It further requires a sympathetic knowledge of the requirements of the donee. Palmer, also, elucidates the supererogatory character of donation, pointing out that it is to be distinguished from obligatory contributions.

Palmer's discourse was followed by a fifty-five year absence of professional commentary on philanthropy by social philosophers. In 1974 Robert Nozick devoted a small section of his book *Anarchy, State, and Utopia* to the free rider problem in philanthropic endeavors. This discussion has in turn been followed by an issue of the journal *Social Philosophy & Policy* entitled "Philanthropy and the Public Good." Before summarizing this body of work, I will briefly elucidate the areas of philosophical investigation suggested by it.

1. The Public Goods Problem

Nozick and others have suggested that the free rider and assurance problems that are associated with the distribution of public goods may affect charitable donation as well. Unless cooperative strategies are presently available or can be devised to overcome these putative problems it is arguable that philanthropy should be replaced by governmental programs.

2. The Character of Philanthropic Obligations

The nature of voluntary aid as distinguished from enforceable obligations requires philosophical exploration. Is the rendering of such aid an act of supererogation or an imperfect duty? Are these two concepts distinguishable from one another?

An associated question is whether duties of philanthropy are held only toward specific individuals in virtue of both their need and their relationship to the potential donor or merely toward anonymous classes of needy individuals and institutions? Another way of putting the same question is, is need a sufficient ground for charitable obligation or merely a necessary condition of it, which must be supplemented by reference to something particular about the needy subject?

3. The Virtue of Giving

Is giving a major or minor virtue and what part should its cultivation play in the moral education of our children? To what effect is it proper or improper for interestedness (not necessarily self-interest) on the part of the donor to motivate the act of donation?

4. Philanthropy and Social Institutions

To what extent is philanthropy a correlate of private property regimes and to what extent should it be? What implications does this putative association have for the philosophical justification of giving?

To what extent does the justification of voluntarism depend upon a prior moral commitment to political pluralism and therefore, political liberalism?

To what extent are liberal political and economic institutions required for philanthropic activity to flourish?

While there are many other areas which might usefully be investigated, a good philosophical start would focus on these four subjects, at least initially. As mentioned, a very limited amount of prefatory work on these and other questions has already been undertaken. In what follows we will summarize that work.

1. *Anarchy, State, and Utopia* by Robert Nozick

Nozick first broaches the possible problem of free riding as an impediment to charitable solutions of social problems. Nozick argued that if cooperative solutions could not be found for such impediments an argument would be available for widened state activity.[3]

2. "Philanthropy and the Public Good," *Social Philosophy & Policy* 4, 2 (Spring, 1987)

This collection represents the initial foray of social philosophy into this largely virginal territory. Each of the pieces, therefore, is in some ways seminal and deserves summarization.

The essays in this volume address a broad range of philosophical issues that emerge from an examination of philanthropy, especially as it is practiced in the United States. What is the connection between philanthropy and such traditional virtues as benevolence and generosity? What role, if any, is appropriate for philanthropy in a democratic society? What are the ethical norms that should guide the actions of both the practitioners and the beneficiaries of philanthropy? Questions such as these provide the normative background against which the findings of social scientists concerning the extent and priorities of philanthropic activity ought to be interpreted. If public policy regarding philanthropic activity will be enlightened policy, we need to be informed about the values at stake in either encouraging voluntary giving or restricting it.

One might be inclined to think that benevolence--the disposition to do good for others--is the primary motivation for philanthropy. In "Beneficence/Benevolence," William K. Frankena argues that while this might in fact be the case, benevolence and philanthropy are nonetheless quite different things. We do not ordinarily call someone a philanthropist just because he or she has a disposition to do good for others and acts on this disposition, i.e., is *benefi-*

cent. Being a "philanthropist proper takes greater means...and a more formal effort." In other words, philanthropy is beneficence on a large and well-organized scale. Further, Frankena does not believe that benevolence should have the social good, in any utilitarian sense, as its object. But it is plausible, he says, to argue that this is precisely the object that philanthropy should pursue.

John Kekes is even less convinced that there is any important connection between philanthropic activity and benevolence. In "Benevolence: A Minor Virtue," he disputes the claim, made by many Christians and utilitarians, that fostering benevolence in moral agents is a good (and perhaps the best) way to encourage them to recognize that their obligation to act for the good of others extends to all human beings. He argues that benevolence is not a very important virtue, because it is only one motive among many--e.g., a sense of duty or justice, prudence, the desire to avoid guilt or shame--to act for the good of others. And generalized benevolence, concern for the well-being of *all* other human beings, is not even a particularly desirable character trait; for it may, Kekes argues, undercut the motivation to do good "in our own bailiwick," where we are likely to be the most successful.

T.H. Irwin also addresses the issue of how and to what extent we should attempt to foster benevolence. In "Generosity and Property in Aristotle's *Politics*," he explores the relation between private property and benevolence (or generosity) in Aristotle's ideal state. Generosity seems to require private property; if one does not possess anything of one's own, it is not clear that one can practice generosity. According to Irwin, Aristotle appeals to the unique benefits to its practitioners of generosity as a defense of private property. Aristotle believes that generosity is a virtue and an important component of the good life; thus, private property is justified because it makes generosity possible. However, Irwin concludes that Aristotle does not succeed in showing that private property is necessary to the exercise of generosity and, hence, he does not succeed in showing that private property is justified.

The label of *philanthropy* is generally reserved for actions which exceed in some way our obligation, if there is one, to do good for others. In "Private Philanthropy and Positive Rights," Alan Gewirth considers the issue of whether or not our positive duties to others are so encompassing as to leave little or no room for "voluntary" philanthropic activity. Gewirth argues that people have positive rights, including rights to the resources necessary to their basic well-being, and that these entail correlative duties on the part of those of us with surplus resources to help those who cannot through their own efforts secure their own well-being. In light of the extensive suffering and privation in the world, one might suppose that simply fulfilling these duties would use up all our surplus, leaving nothing for "voluntary" philanthropic activity. But Gewirth thinks otherwise. Often, what the impoverished need is not so much direct help as it is changes in institutional and social structures that would enable them to secure their own welfare. And this indicates that there is indeed a role for private philanthropy; it can help us to identify and understand the institutional and social deformities that cause privation and thereby contribute to long-term solutions to the problem of privation.

However, critics of private philanthropy often argue that it has little or no role in a free and democratic society because it is the job of the state to promote the general welfare by satisfying needs that are not met by the market and, thus, that it is unfair to provide tax exemptions to encourage philanthropy. In "The Role of Private Philanthropy in a Free and Democratic State," Baruch Brody considers three possible responses to this criticism. The first--that private philanthropy can promote the general welfare in ways that are not open to the state--he finds wanting because it is possible to doubt that private action can accomplish anything that the state cannot and because this response relegates philanthropy to a very peripheral role. The second--that permitting or encouraging philanthropy allows the state to promote the general welfare without coercion--he finds unconvincing too because it rests on the strong "libertarian" view that the state should not compel people to do good. The strongest response, Brody thinks, rests on the classical view that the state should promote virtue. By permitting private philanthropy, the state broadens the opportunities for virtuous action; and by making philanthropic activity tax-exempt, the state encourages virtue without compelling it.

But even if this is correct, there is still an apparent dilemma for philanthropy in pluralistic and democratic societies such as our own. David Sidorsky examines this dilemma in "Moral Pluralism and Philanthropy." Each instance of philanthropic activity, if it is sincere, represents some portion of the activity of "doing good." Yet, in a democratic and pluralistic society, philanthropic institutions will of necessity pursue different and even conflicting goals. This has the air of a paradox. And, Sidorsky argues, an investigation of the mechanisms that other forms of pluralism--religious, political, academic--employ to reconcile a plurality of aims with the notion of a common good does not resolve the paradox. Nor is the paradox resolved by an examination of the Aristotelian approach to reconciling a plurality of virtues with a univocal conception of the good. However, an analogy to the so-called "paradox of democracy" allows us to see that this paradox, although quite real, is not as troubling as it might first seem.

As the scope and impact of philanthropy continues to grow, it becomes increasingly important to investigate the norms that govern philanthropists and their beneficiaries. In "Philanthropy and Selfishness," John O'Connor considers whether or not there can be good reasons, other than lack of resources, to respond negatively to worthy solicitations. He argues that there can, and one of the most important is that a moral prohibition on saying "No" would undermine one of the most important motivations for philanthropic activity. Philanthropy, O'Connor argues, is often a way of expressing one's identification with a cause or an ideal or an institution. If, instead of allowing people to make their own choices, we try to motivate them with guilt, or appeals to emotion, or crass advertising techniques, philanthropic activity will soon cease to be a way of expressing such identification. This, O'Connor argues, would be counterproductive.

In "Moral Values and Private Philanthropy," Michael Hooker argues that the relationship between grantees and foundations is sadly lacking in at least one important moral value--that of candor. Grant proposals and evaluations of completed projects both exhibit a degree of hyperbole that Hooker finds unacceptable. The motivations for this are obvious and, Hooker argues, grantees cannot be expected to rectify the situation; they are faced with a prisoner's dilemma

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that makes it irrational for any one of them to flout this convention of exaggeration. Only foundations can effectively encourage more candor in the relationship. And they can do this, Hooker maintains, by establishing procedures for the review of proposals and the monitoring and assessment of projects that bring together the grantees, the foundations' project officers, and independent evaluators for frequent consultations.

This terribly slight body of recent philosophical work has stimulated the interest of colleagues throughout the United States. Only two weeks ago a conference at the University of California at San Diego was held to further probe these matters. It is to be hoped that it will be followed by more systematic investigations by moral philosophers into the relationship of philanthropy and social values.

Notes

1. Palmer, 1970.
2. Pp. 32-74.
3. Nozick, 1974, pp. 265-268.

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LADY BOUNTIFUL AND HER GOOD WORKS?

by
Teresa J. Odendahl

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LADY BOUNTIFUL AND HER GOOD WORKS? 1

American women of wealth are both privileged and subordinate. They have less power than the men of their class, yet rich women have more authority and status than most people because of their connections to powerful men and their involvement with philanthropy. In this paper, I focus on rich women philanthropists. My examination includes a consideration of contradictions raised for wealthy women by the new women's movement that are embodied in emerging feminist giving.

This analysis is based on 54 interviews with wealthy women in locations across the United States. The interviews were conducted as part of a Yale University, Program on Non-Profit Organizations and Council on Foundations research project (Odendahl 1987), although the particular interpretation is my own. During the course of a larger study of both men and women millionaires, gender emerged as an important variable. The interview guide dealt most specifically with charitable attitudes and motives, particularly those having to do with giving. Many of the women we interviewed chose to tell us about their family life and volunteer activities as well. However, we did not solicit detailed information in this area. The fact that so much data are available in the interview transcripts, in spite of our oversight, confirms the importance that women of wealth place on the intersection between prescribed gender roles and philanthropy.

Empirical research focusing on upper-class women has been extremely rare until recently (Daniels 1985, forthcoming; MacLeod Yale dissertation; Ostrander 1980, 1984; Tickamyer 1981), and there are only a few theoretical analyses of patriarchy, class, or sex stratification that include a consideration of women with wealth (Domhoff 1970; Hacker 1975; Smith 1976). Susan A. Ostrander has published the most indepth work on women of wealth, Women of the Upper Class (1984). My analysis owes much to her general framework.

The lives of most wealthy women are defined by their family relationships, especially their roles as wives and mothers, but also as daughters, sisters, and/or widows of rich men. Upper-class women spend their time outside the home as unpaid volunteers, fundraising as well as serving on nonprofit committees and boards (Daniels 1985, forthcoming; Ostrander 1984, 111-139). Although the women's movement has helped change many of the ways in which women view themselves in the world, it has had less impact in the upper class, where gender roles remain more rigid than in the wider society.

In most upper-class families, the wife is responsible for childrearing, household manangement, social life, and charitable activities, whereas the husband is still primarily involved in business endeavors. Men of inherited wealth tend to invest their own money in entrepreneurial concerns, while the assets of women in the same position are often managed by husbands, brothers, or male financial advisors.

Many women of wealth have been taking increasing control of their money, but most do so by setting up charitable funds and foundations which they then administer themselves. For example, even wealthy women who consider themselves feminist or progressive maintain a tradition of philanthropy, just as their mothers-in-law, mothers, and grandmothers did before them. Often these less traditional women givers are trying to escape stereotyped gender roles. They attempt to increase their personal authority and make meaningful work for themselves. Although some of their specific funding may be considered misguided by their families, it is usually the type of noblesse oblige work that is acceptable within their class.

Socialization and Changing Expectations

When they are young, upper-class women are frequently trained by other women to become involved with charity. A middle-aged southern woman of wealth described the tradition in her family, and at the women's college she attended. She mused:

> I have been involved with [philanthropy] all my life. I do not even remember when we were not talking about something like that. You remember bits and pieces from your childhood...My mother was always interested...Then my grandmother sort of nabbed me, got hold of me, when I was in high school...She said,'Now, I want you to get interested in [a particular family charity]'...I went to all kinds of dedications and unveilings, and what have you...
>
> I had a very strong Dean when I was in college, and I got very close to her...She pushed us very, very hard into just about everything that you can imagine. She urged us to go into public life. She urged us to go into philanthropy...to make something of ourselves.

Making something of oneself among upper-class women usually means assuming the proper roles of wife, mother, and volunteer. Philanthropy, rather than paid work, is an appropriate activity before marriage as well. One young woman said: "I inherited a lot of money when I was 21. And I immediately started giving -- out of a sense of responsibility that I got from my mother."

Although mothers and elite institutions socialize wealthy children to maintain upper-class standards (Domhoff 1967, 1970, 1983; Ostrander 1980, 76; 1984, 70-96), daughters are also encouraged by their fathers to undertake charitable work. A young woman in California with inherited wealth told us: "I used to go to board meetings with my father...Once, when I was probably about 15 years old, I went to a corporate contributions meeting with him, and was fascinated." Her family owns a sizable share of one of the largest companies in the world. This woman is an unpaid full-time staff member of a grantmaking organization she helped establish.

Fathers are not the only upper-class men who urge women to do charitable work. A middle-aged woman informant is the director of her brother's foundation. She remembered:

> My brother phoned me to join him when his foundation was established. He felt [giving] would be a very personal thing with he and his wife; that I understood them; that I could be pretty tough; and that with the things he would want to do, it would take those attributes. So, I did agree to resign the job that I had prepared myself for, and that I loved, to join him. I have never regretted it.

Although most of the upper-class women we spoke with are content with their roles in life, several voiced concerns. Many single women of wealth hope their primary roles are changing. And, some married women with children feel conflicted and limited by their familial functions (Ostrander 1980, 38; 1984, 140-153). This seems particularly true of younger women. Older rich women tend defend their life choices and privileged position, although some have altered their behavior as a result of the women's movement. Generally there has not been much questioning of assigned roles, although it has led to a greater recognition of them. For example, a middle-aged eastern woman explained:

> I came out of the kitchen, although I do not think too many people ever associated me with the kitchen. I ran the foundation almost anonymously from my home for 14 years... I was encouraged by a few different people to take my role in the foundation world more seriously, and to demonstrate that seriousness by becoming more visible--taking an office, having a calling card, a number of symbols...And of course, this grows out of the women's liberation movement. Rather than taking a paying job, which I do not need, I was encouraged to be effective...and at a critical time in my life.

The content of this woman's work has not changed although the form has. She is more public about her financial donations, but she still chooses to work as a volunteer. The difference may be that she now feels her philanthropy is viewed as legitimate and meaningful by the wider society.

Several women who participated in the study have helped create "women's funds," grantmaking organizations which focus on the concerns of women and girls. At least 35 of these funds have been formed in 17 states in the last decade (National Network of Women's Funds 1986, 6). While this movement to improve the status of less fortunate women is laudable, it does not conflict with the basic privilege enjoyed by upper-class women. In certain respects, it may maintain that privilege, forcing other women to depend on the largess of women of wealth.[2] Elite women are establishing these funds to increase their own authority, in addition to assisting other women. Whether through women's funds or charity more generally, the activities of wealthy women do not change society in any fundamental way, but may help to maintain and improve the status quo.

Control of Wealth

It is commonly held that women have less control over their wealth than men. In her groundbreaking study of women's wealth and power, Ann R. Tickamyer found that: "there are fewer wealthy women than men; they have less wealth; and it is distributed differently" (1981, 468). According to Tickamyer and others, women have been acquiring a greater proportion of wealth; in 1922, 25 percent of top wealth holders were women, and by 1972 this figure had risen to 39 percent. Tickamyer has suggested, however, that the sources of women's wealth are different from men's, and that women deal with their wealth more passively than men. "[W]omen's property is often tied up in trusts" (470).

While attorneys, accountants, and bank trust officers serve upper-class clients of both sexes, male advisors are frequently blamed for keeping women's funds tied up. The typical scenario involves the elderly widow, who is not very knowledgable about financial matters, and leaves the administration of her estate to bankers and lawyers. A middle aged woman of wealth elaborated:

> The people in my generation have depended on their male financial advisors and lawyers... I have friends whose situations are controlled by lawyers and financial advisors. I am talking about friends who have a considerable amount of money.

Although men attorneys and accountants are often seen as the culprits, keeping money out of the hands of women, male family members probably established the original trusts that limit the female beneficiary's control over assets, or manage the portfolios. [3]

Sometimes, resistance to younger women taking greater control comes from older women, especially mothers. One informant indicated that her mother is dubious about her charitable endeavors, probably because her philanthropy is now more public and less traditional. She said:

> [My mother] has had a lot of questions about my grantmaking. She does not necessarily think it is the greatest thing. She has been a little worried about the whole thing, afraid that I am going to do something to get into deep water.

Apparently, wealthy women are taught to become involved in charitable activities, but they are expected to support traditional causes, and often to do their work behind the scenes (Daniels forthcoming).

An older woman described her strategy: "I always went, kind of, the back door way to what the needs were." But she goes on to say, "I did not mind speaking up...I will give you an example."

> I kept pushing the fact that there was no woman trustee...Well, eventually that came about. One of the presidents retired and they appointed his sister. We all [wealthy women] participated in this pressurizing, [but we had to be sure not to] bug people too much. I felt we were making points.

Some upper-class women are seeking more power, but many feel that they cannot be too obvious about it. They use strategies traditionally acceptable for women.

Although the informant speaking above thinks that women should have more power, she also seems to endorse the dictum that those who do should be elites. This woman does not indicate that there is anything wrong with the fact that the sister of a prominant man was the woman named as a trustee. The sister came from the "right" kind of family, but beyond this, it seems that it was not her personal characteristics that qualified her for the position, but those of her brother.

When most of the upper-class women we interviewed spoke of taking control of their wealth, they generally intended to do so in order to fund causes they endorse. This situation may simply reflect the types of people who agreed to participate in the study -- those who are most charitable. It may also indicate that wealthy women view philanthropic control as safer and more acceptable than corporate management and investments.

A young single woman of wealth, who lives in the east, and is actively encouraging women to take greater control of their money, said:

> I think it has been real difficult for us to convince ourselves as women that we can and should give large sums of money to different things...the financial piece is the last thing that we, through the women's movement, have come to realize that we need to grapple with...We just have not recognized ourselves as having financial power with a financial responsiblity.

She has been giving directly to charities and political organizations for a number of years, and is planning to set up a foundation. In this respect, she is very similar to men who have established foundations so that they can have maximum control of the disposition of their charitable funds. She continued:

> I certainly want the authority. There is no doubt about that. There is no other board [for my philanthropy] than me. When we form the foundation, there will be a three-person board, and it will be my best friend and my financial guy. It is very clear that the funding decisions are going to be mine.

Wives and Mothers

There are only a few ways that a woman can become an upper-class wife and mother. The most likely path is to grow up with wealth, to marry a rich man, and to have children. Another avenue is to marry up, into a wealthy family, or to be married to a man who becomes wealthy. Finally, but probably least usual, is the woman who brings her money with her into marriage and raises the status of her husband. This sometimes happens with women of inherited wealth, but it is rare for women to have had the opportunity to become rich through their own endeavors. Whatever the circumstances that lead to upper-class wifehood, the activities of elite wives are remarkably similar.

This parallelism between women who sometimes come from diverse backgrounds was described by one of our informants. She spoke of her own modest upbringing and of her wealthy prep school roommate. When they first met their financial circumstances were entirely different. But since each of them has married upper-class men, they are "taking very parallel tracks...I really feel that linkage with her."

This young woman prefers to view herself as different from other elite women and feels: "There are not a lot of role models for me. They are either the women who married into money, a long time ago ... and then there are the women who inherited the money." But, she is very clear that, "I married into this situation of responsibility." "I was given money as soon as we got married. I was given stocks so that I could give away." Although not originally of her husband's class, she has learned the acceptable behavior, and absorbed the values. [4]

She might have taken a different career path, but she said:

> I have spent my childbearing years working as a volunteer, as a board member...There is a flexibility that I very much like. On the other hand, there is nobody who can fire you, or really dare criticize you, because not only are you there working for free, but you are also contributing money and raising money.

Here, she describes the benefits of an upper-class volunteer's lifestyle, but also expresses some conflict about her privilege.

Volunteering and fundraising are viewed as appropriate roles for wealthy wives, but, as indicated earlier, making decisions about where money will go--even funds that the woman inherited, or those earmarked as charitable--is another matter. I was told about a woman who had inherited considerable wealth, which her husband managed. "She did not feel she had a right to do anything with the money. She would always go to him and say, 'Oh, please, give something to this.' He was giving to all these ... things she did not like."

Once again, among the informants, discussion of control over finances centered on the charitable disposition of money. A somewhat atypical wealthy woman fundraiser and giver, who was interviewed along with her husband, told us:

> Most of the wives are not free to make the final decision. It always involves two calls. I call and they say, 'I'll ask my husband what I can give this year.'...I have not had one woman say to me, 'Yes, I will give you x number of dollars for my gift this year.' I am always tempted to say to them, 'Do you call up and ask you husband if you can buy a pair of shoes?'I mean, I just have to bite my tongue...[Women] never give as much to charity as men do. Women are not as generous as men at all.

She continued:

> Most women do not have money, unless they are widows and have been left an estate. Most of the women my age are married to wealthy men... It is the husband's money... There is not much independent giving...I find that disappointing because I thought that when women got their freedom over the past few years, and there are so many women working, at high salary jobs...that they would take on responsibility for giving too. But, it is very slow in giving. They are not used to it, not trained to that.

A younger rich woman wealth suggested that women should be more independent in their charitable contributions. "I used to think that you should deal with philanthropy as a couple, but I think that as more and more women gain financial independence the[se decisions] should be dealt with separately."

Upper-Class Feminism With Contradictions?

Most of the wealthy women we interviewed did not mention the women's movement, or if they did, they referred to it in a negative manner. For example, they did not really approve of women of their class taking paying jobs. However, several relatively young women from all parts of the country vocally advocated changes in the status of women, and sometimes for women of wealth as well.

Only three informants used the word feminism, or decribed themselves as feminists, but five others chose to speak about the concerns of women and girls at some length. One additional woman managed to discuss women's issues without once referring to feminism or women. For example, she said she gives money to NOW

(National Organization for Women, she used the letters), is pro-choice (referring to abortion), that she believes in sexuality education and preganancy prevention.

Half of these women are single. Three of them have never married. Curiously, the younger single women avoided the term feminist, although they are all activists, control their wealth, and are heavy funders of feminist causes.

> According to one middle-aged wealthy woman: After having become a feminist, which I did several years ago when I was getting my divorce, I went into a consciousness-raising group and became a feminist... Here I was taking care of kids, all of my labor was free, as all women's labor has been free for centuries.

This woman developed a personal philosophy that equates giving with women's values. "I participated in this gift-giving economy rather than the exchange economy in the work world...Women's work is gift-giving, as opposed to exchange. I figure that is really the social basis of women's values...Another name for it is nurturing..." She has established her own charitable and political contributions program, and she hopes to be a role model for other women.

One young woman spoke of an endeavor with which she is involved:

> We thought that it was really important to talk about philanthropy and to talk about it in the context of financial education. Particularly when women are reading that two-thirds of all those in poverty in this country are women. There is a real fear... that no matter how much money you may have, whether you are making $300 a month as a welfare woman, or I am making $5000 a month as a woman with inherited wealth, we both still share a certain phobia that the money will not be there in the future.

She has worked with other women to set up a women's fund in her community. She explained: "Our commitment to diversity is one thing that distinguishes us. We feel that it is critically important to create an organization that is not just being run by a group of upper-class white women."

Other women in this category referred more the their own status as women of wealth. One young married woman with children said:

> I think there is a real emerging network, a sort of changing network of women who talk to each other about this kind of thing [fears about having wealth]. I do not like to spend a lot of time thinking, 'Oh, woe is me... Given the problems one could have in the world, ours are not significant.

There are many similarities between these more feminist women and others of their class. Only one women is this category is currently employed for a living. Two or three others spend part of their time at paying jobs, but these positions are somewhat related to philanthropy.

All of these women work very hard at their charitable endeavors. One woman of wealth said very straightforwardly:

> Instead of deciding to go to law school or business school, I sat on different boards of directors of different organizations... I made sure that I sat on the finance committees. And I listened for five to six years, absolutely learning from people who were pros.

Another woman took a different career path. She explained:

> I got my MBA and in the process of getting it started learning more about how to manage [her business and philanthropic affairs], and how to work with these guys, the old family retainer types, that had been taking care of me. I became much more involved and aggressive in managing the money.

She continued: "I say I have these three jobs...I am an investor. I invest in real estate, the stock market, and small public interest organizations." She works out of the office of a charitable fund she established. "It gives new meaning to the term, 'I gave at the office.'"

Final Thoughts

Wealthy women are coping with changing values. But, whether they are conservative or liberal, their strategy has much in common with that of their female predecessors. They choose to do their work as a kind of lady bountiful, in the safe arena of the nonprofit sector. Even those women who consider themselves feminists have fairly traditional volunteer careers in philanthropy.

Notes

1. An expanded version of this paper will appear as a chapter of The Culture of Philanthropy, under contract with Basic Books. I am especially grateful to the other interviewers and co-researchers on this project: Doris Bittar, Elizabeth Boris, Carol Hooper, Francie Ostrower, Andrea Ross, and Catherine Sullivan, as well as Arlene Kaplan Daniels, and the members of my Washington, D.C. Study Group, who also commented on early drafts.

2. One would not expect wealthy women to abandon their class interests or early socialization. I am making a structural point here concerning the possible effects of philanthropy by women. Following de Beauvoir, other feminist scholars have documented how women are socialized to assume gender sterotyped roles and behavior. For most wealthy women, class solidarity seems to be more binding than gender solidarity.

3. In her brilliant examination of the status of women, Simone de Beauvoir attempted to explain why female oppression has persisted throughout history. Although a thorough summary of her analysis is not possible here, several of de Beauvoir's key ideas merit repeating. "[Women] live dispersed among the males, attached through residence, houswork, economic condition, and social standing to certain men -- fathers and husbands... (1952, xxii), she wrote. Furthermore, "the bond that united [woman] to her oppressors is not comparable to any other (xxiii)." Women love the men to whom they are subordinate, and therefore find it difficult to blame their situation on individual loved ones.

4. This woman probably absorbed some of these upper-class values in her prep school. She clearly went to a school that was deemed appropriate for the daughters of the wealthy, or her roomate would not have attended. And, the informant or her family showed aspirations of upward mobility by choosing that school, perhaps an instance of anticipatory socialization.

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PHILANTHROPIC ACTIVITIES OF WEALTHY WOMEN

by

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Prepared for Panel on
Women and Philanthropy
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Topic and Rationale

It is now widely recognized that women--even women of wealth--are less likely than men to occupy positions of influence in the philanthropic sector. (McPherson and Smith-Lovin, 1986; Ostrander, 1984; Tickamyer, 1981) It is also recognized that women's organizations and women's concerns have been largely excluded from traditional philanthropic giving. The National Committee for Responsive Philanthropy reported that of the $4.36 billion given in gifts in 1984, only four percent went to programs benefiting women and girls. There is a growing effort to correct this situation. The Foundation Directory has just published its first issue of "Grants for Women and Girls." The Ford Foundation has awarded a grant to Women and Foundations/Corporate Philanthropy for activities to increase funding for programs benefiting women and girls, and to increase the status of women in philanthropy. Some 28 women's funds have been established across the United States, and the National Committee for Responsive Philanthropy has established a new staff position to work with these funds.

There is reason to believe that women of wealth are beginning to turn away from the tradition of giving control of their money to fathers, husbands, sons and brothers. The philanthropic community is, of course, interested in what these women will now do with their money. Further, there has been a concern that wealthy women (who have been a mainstay of volunteerism) will follow their middle and working class counterparts into the paid labor force, leaving the voluntary sector at a loss. These are the kinds of issues that form the background and rationale for this paper.

My aim here is to begin to lay out a theoretical framework and questions to guide research on wealthy women and philanthropy. The framework I am proposing is sociological and feminist. I will use the framework to review some of what is known about the philanthropic activities of wealthy women, drawing in part on my own research on upper class women and on voluntary social service agencies. I will conclude by briefly addressing the question of how this research might be useful.

Theoretical Framework and Questions

Three of the most basic sociological questions about human activity--in this case philanthropic activity--are: first, what does the activity consist of, what exactly is done and how is it organized and carried out? Second, why does the activity occur? By this I do not mean the inner motivations of individual actors, but rather the social-historical conditions or circumstances under which the activity takes place, the external context which surrounds and explains its occurrence. Third, what are the consequences of the activity for social institutions, for the larger societal structure?

Introducing a feminist perspective specifies these broad questions, enabling them to illuminate activity in new and exciting ways. (Andersen, 1983; Eisenstein, 1981; Hartsock, 1983; Jaggar, 1983.) We then ask what are the differences and similarities in what women and men do in the philanthropic sector, and in how and why they do it. More importantly, *what are the consequences of the differences in women's and men's philanthropic activity for the construction of the activity itself, for how philanthropy is defined, carried out, and within what terms?* And perhaps most importantly, *how has women's changing participation in philanthropy altered not only their own position and that of men, but changed the construction of the activity itself and the consequences for social institutions?* These questions, it seems to me, create a useful framework for the study of philanthropic activities of wealthy women--a framework I will use to review what existing research has to say about this topic. We currently have no more than the barest skeleton of a sociological and feminist theory of philanthropy, but I think we know enough to begin to formulate some well-grounded theoretical speculations. I will review the current research in more detail in the next section of this paper, but let me say enough here to suggest the theoretical direction toward which I am headed.

First, we know something about *what* it is wealthy women and men do in the philanthropic sector and how it is similar and different. We know that wealthy people--women and men--typically donate funds, serve on policy-making boards of directors, and plan and carry out fundraising events and activities. I think we also know that men have access to more resources and therefore contribute more money than women. While women appear to outnumber men in philanthropic and voluntary organizations, there continues to be a gender division of labor that accords men more power in the organization, though not necessarily more importance.

This gender division of labor in the philanthropic sector (and in other sectors in the society) gives women a different vantage point from that of men. We do not yet know whether this results in wealthy women having different values, priorities, interests, and attitudes about philanthropic activity; or whether, if these exist, they are transferred into action. We do not know whether this different vantage point leads wealthy women to have different philanthropic goals from those of men, to emphasize different issues and concerns, or to operate with different processes and modes of action. There is some evidence that women in general are more concerned with human relationships and community, while men are more autonomous and hierarchical. (Gilligan, 1982) Some research suggests that women may behave differently in leadership positions in voluntary agencies, using a more participatory mode of decisionmaking. (McCloud, 1984) Women overall have different political attitudes than men, are more opposed to militarism and more likely to believe that government should intervene to solve social problems. Women have also been more likely than men to oppose the Reagan cuts in social programs, though the gender difference on this issue may disappear at the upper income level. (Goertzel, 1983) If it is true that today's wealthy women are more likely than in the past to retain control over their own money, they are also newcomers to large philanthropic giving, and as such may have a different and fresh perspective. It appears, therefore, that there is reason to ask whether differences in what women and men do in the philanthropic sector--in the roles and positions they occupy--might lead women to construct philanthropic activity differently from men.

We know much less about why wealthy people--women or men--engage in philanthropic activity, about the social conditions and circumstances that surround and explain such activity.[1] What scholarly work exists on this topic deals largely with internal motivations and often emphasizes an altruistic motive. (Arrow, 1975; Kennett, 1980; Payton, 1984; Titmuss, 1974) Some researchers suggest economic motives or ones having to do with class power and control. (Domhoff, 1970; 1983; Hall, 1975; Useem, 1984) Others have suggested status concerns. (Galaskiewicz, 1985) Some claim the responsibility of leadership elites. (Baltzell, 1966, 1979) Women are often not included in this research at all, or--if they are--are looked at through the same analytic frameworks as men. Exceptions are some very useful historical research I will consider shortly.

We do know that noblesse oblige is an important social explanation for philanthropic activity. (McCarthy, 1982; Ostrander, 1984) Wealthy people are seen by themselves and others as having a civic obligation to the society which has granted them privilege. Noblesse oblige images relations between givers and receivers, between the wealthy and others as separate and distinct and as hierarchical. The privileged give to and help those less fortunate, less privileged.

Much work remains to be done on the social causes of philanthropic activity, and on the gender similarities and differences. We need to know whether women--especially wealthy women--conduct philanthropic activity under different social circumstances than men and whether this carries a potential for constructing that activity in new and different ways.

In regard to the societal consequences of philanthropic activity, we know most basically that philanthropy has traditionally played a conserving function. It has contributed to reproducing existing institutions--especially class structures--occasionally to reforming them but rarely to altering them fundamentally in structure or organization. One reason for this is stated succinctly by social historian Edward Saveth in a study of late 19th and early 20th century "patrician" philanthropy: "Patricians, because of their wealth and prestige had more to lose than anyone else in the event of profound social change." (Saveth, 1980: 77) Beyond this conserving function, we do not know a great deal about how philanthropy has affected the larger society and culture. We know even less about whether the philanthropic activity of wealthy women has different consequences for society and its institutions from that of men; and/or whether there is a social basis for wealthy women changing those consequences, perhaps moving more in the direction of reform and social change.

The remainder of this paper will look in more detail at some past and present research to begin to find answers to the questions I have posed and to consider the uses to which these answers might be put.

A Review of Existing and On-going Research

What do wealthy women do in terms of philanthropic activity, and *how* is it similar and different from what wealthy men do? The historical research which I have reviewed suggests that women and men have, since the beginning of organized American philanthropy after the Civil War, been engaged in different aspects of philanthropic activity. It appears that what women do has become gradually more similar to men's activities. In the mid to late 19th and early 20th centuries, women lacked legal authority and could therefore not function as full trustees. The development of separate men's and women's boards institutionalized a gender division of labor and inequalities between women and men. (McCarthy, 1982: 13, 50) While women have for some time outnumbered men in philanthropic organizations, and while gender separate boards no longer exist, my own research and that of others suggests that the gender division of labor and inequalities continue as common, though not exclusive, patterns of philanthropic organization.

Wealthy women continue to assume--more often than men of their class--positions in voluntary and philanthropic organizations that, while they are of no less importance, accord men more power. Wealthy women make decisions about and oversee the programs or services the organization brings to consumers, audiences, or clients. While donating money themselves, they also plan and run the organizational and community "social" events and activities essential to maintaining philanthropic exchange networks. (Ostrander, 1984; Daniels, forthcoming) Wealthy men make decisions about and oversee fiscal and legal--economic and political--matters. These issues dominate the organization. They set its direction, define its goals, and limit its activities. (Ostrander, 1986) Men are also more likely than women to be involved in national philanthropy and in larger philanthropic organizations. (Tickamyer, 1981; McPherson and Smith-Lovin, 1986)

One question for future research is whether wealthy women will move more into dominant male positions or whether they will continue to reside in the "women's realm." A more important question, I would argue, is whether the continued differences in what women and men do in the philanthropic sector form a social base for wealthy women to construct an alternative model of philanthropic activity. The differences appear to be patterned and real, placing women, for example, closer to carrying out the mission of the voluntary or philanthropic organization and closer to its clientele. Here may exist a genuine social basis for these women to construct a philanthropic alternative.

The next question is *why* wealthy women do philanthropy--why in the sense of external social conditions and circumstances--and how this is similar and different from men. The early women philanthropists of the mid-nineteenth century became involved in philanthropic work in part because of a declining role at home and a limited role allowed them outside the home. As schools and factories and other social institutions took over what women had done in their families, women sought other activities. "Charity work" was seen as an extension of their cultural role in the home, as bringing the presumed moral stability and compassion of family life into the public realm. (Rauch, 1975; McCarthy, 1982) These circumstances are specific to women and the dilemmas history presented to them.

Later in the 19th century, the circumstances underlying wealthy women's philanthropy changed. In the Gilded Age of industrialization and urbanization great fortunes were made and greater separation of the classes occurred. By 1900 when the Junior League was formed, wealthy women had created a network of exclusive private clubs through which they did much of their philanthropic work. They moved away from "charity work" and more into the cultural realm. The private clubs and the cultural work isolated them more and more from members of other socio-economic classes, and rendered the status and influence they could achieve through philanthropy more and more important factors. (McCarthy, 1982; Gordon and Reische, 1982) This brought them closer in line with wealthy men who did philanthropy in part as an extension of their entrepreneurial activities, as another "road to power and achievement." (Saveth, 1980:78)

My own research on upper class women (done in the 1970's) suggests that the reasons these women do philanthropic work draw from both these historical legacies--the earlier gender-specific one which separates them from the men of their class, and the somewhat later class-based one that links them in a common framework for activity. (Ostrander, 1984) My research is based entirely on indepth interviews with thirty-six women who met established criteria for membership in the American upper class.[2] I was not doing the same kind of macro-level analysis of societal conditions as the historical research I refer to above. The modern women I spoke with were, however, reminiscent of their mid-19th century sisters. They talked, for example, about the advantages of voluntary philanthropic work for allowing them to continue their traditional responsibilities at home yet do useful and satisfying work in the community. Philanthropic work thus upheld their traditional gender position, including their subordinate positions to the men of their class. At the same time it allowed them to extend their roles.

The more important reasons these contemporary upper class women had for their own philanthropic activity were, however, more similar to their late 19th and early 20th century sisters than to their mid-19th century ones. These were the class-based reasons they shared with the men of their class. They spoke most often of family tradition, of noblesse oblige, of the opportunity to obtain for themselves positions of influence in the community. The importance the women attached to these similarities of class seemed to override the differences of gender. Unlike the patterned and persistent differences in what wealthy women and men do in the philanthropic realm, why they do it appeared to me to not be different enough to suggest an affirmative answer to the question of whether today's wealthy women have here a strong social basis from which to construct an alternative model of philanthropy.

The final and perhaps most complex question to be answered here is what are the *consequences* of the philanthropic activities of wealthy women for the larger society and its institutions? I am most interested in whether this activity presently serves primarily a conserving function. I am also interested in whether the activity can be transformed toward social reform and eventually to supporting fundamental social change. Such a transformation would, for example, blur the boundaries between philanthropy and voluntarism, and social and political movements. Alliances among wealthy women, and women and men of other classes and races would develop and alter the hierarchical nature of traditional (noblesse oblige) philanthropy.

The research I am familiar with focuses most on consequences of traditional philanthropy for preserving the class structure and capitalism. Surprisingly little research looks at how philanthropic activity actually maintains, reforms, or transforms the particular social institutions toward which it directs its efforts.

Historical research suggests that, while the philanthropy of wealthy women certainly conserved and reproduced the class structure and capitalism, the picture is not entirely monolithic, particularly during the mid-nineteenth century. At that time all classes were involved in "Charity work." This meant a "forging of a personal bond between rich, middle class, and poor." (McCarthy, 1982:6) The women's boards of this time were more inclusive of different classes than were men's boards. (McCarthy, 1982:13) Later in the 19th century, as wealthy women moved away from direct service kinds of philanthropy, these cross-class bonds were severed. As wealthy women did more and more of their philanthropy through class exclusive private clubs, they were shielded and separated from the conditions under which poor and working class people led their lives.

Beginning in the late 19th and early 20th centuries, then, the philanthropic activity of wealthy women had a more clearly conserving function for class structure than in mid-19th century.[3] Writing about the late 19th century charity organization called the Friendly Visitors, for example, Rauch says: "Visitors..cooperated in an effort of the dominant classes to defend laissez-faire capitalism. As beneficiaries of the class system, Visitors were deeply conservative." (Rauch, 1975:250) Regarding ways in which philanthropy of the time contributed to maintaining the structure of poverty, Saveth writes: "Patrician philanthropists were unwilling to provide the poor with the necessities. With poverty seen as a moral failure, they placed more rehabilitation above handouts." (Saveth, 1980:78)[4]

Yet Rauch and Saveth acknowledge that even late 19th and early 20th century philanthropy was not entirely without recognition of the injustices of the class system itself. Rauch also writes of the Friendly Visitors, "As women, they were members of a caste system, embedded in the class structure. Paradoxically, this provided motives that were egalitarian in their thrust." (Rauch, 1975:250)[5] The major social basis for wealthy women being more likely than wealthy men to advocate reform of some sort--for philanthropy serving more than a conserving function--resides, therefore, in women's subordinate position in the structure of patriarchy. While wealthy women's 19th century charity work conserved their position as women (as I described earlier), it was also the only realm allowed them outside the home and one they used to improve their position and that of other women.[6]

My own research on contemporary upper class women suggests that a major consequence of philanthropic activity is the reproduction of the class structure and capitalism, along with, ironically, these women's own subordinate position in the class patriarchy. A major consequence of noblesse oblige--the women's most frequent explanation for their own philanthropic activity--was a justification and legitimation of class privilege. By "paying off" their debt to society, they could deal personally and socially with accusations that their privileges were unearned and undeserved. Family tradition--the other most frequent explanation they gave--served to carry on the influence of the same families that founded the city's institutions. Over and over the women I talked with made statements like, "I've taken mother's position on the board...The family has been involved in it for generations." (Ostrander, 1984:130) The women also spoke of the power they believed they should and did have in the organizations to which they donated funds and on whose boards they served. One said, "The people who contribute most of the funds feel they deserve to have the major say about what's done with their money. Social workers in these agencies need someone to keep an eye on them." (Ostrander, 1984:131) They spoke often also of the importance of "private control" of philanthropic organizations. When I questioned them about whose private control, about who for example they represented when they served on boards, it became clear that private control was in fact the control of their own class. They said, for example, "[I represent] the old families, the traditionals, the real minority in this society, the people who have something." (Ostrander, 1984:133) Most of the women I talked with were opposed to broadening the base of community representation by including consumers or clients on boards.

Ultimately a presumed and desired consequence of philanthropic activity for the upper class women in my study was protection of what they called the "American way." This meant the preservation of the "private [class] control" considered above. It meant avoiding reliance on the government "to keep private institutions alive." (Ostrander 1984:132) It also meant a clear political and economic agenda. As one woman put it, "I think it's important to keep things on an even keel so that things don't go too far over to the left." Another said, "There must always be people to do volunteer work. If you have a society where no one is willing, then you may as well have communism where it's all done by the government." (Ostrander, 1984:132)

These kinds of entirely conserving and class-based consequences of contemporary upper class women's philanthropic activity do not suggest to me much social basis here for constructing an alternative model of philanthropy. In fact, I found it difficult to get the women I spoke with to talk at all about what they thought the impact of their voluntarism was on the organizations for which they worked so hard and long. Even the most active and enthusiastic volunteer leaders spoke of the "illusion of being useful," of their work as "just a drop in the bucket." (Ostrander, 1984:124, 125) Though these women were highly conscious of their subordination to men of their class, their position as women did not seem to be a focus for their philanthropic activity. Their descriptions of their own lives suggested to me a number of explanations for their being less likely than women of other classes to challenge class and patriarchal structures even when they were directly affected by them. These explanations include the substantial power of upper class men, a power very difficult to challenge; the privileges these women obtain from this power; and the absence of upper class women's needing to do either the most demanding paid market work or the most routine aspects of unpaid domestic work, both of which have been compelling social bases for change in the lives of women of other classes.

Research done more recently than that reviewed here, or done with larger samples, or focusing on the youngest women of new wealth may come to different conclusions. But based on my review of existing research, strong social bases do not seem to exist for wealthy women to construct an alternative model of philanthropy fundamentally different from that established from men, or one more oriented toward social reform or social change. The one basis that does exist is the fact that wealthy women continue to do different kinds of work in the philanthropic sector from what men do. Some individuals of wealth will, of course, continue to be involved in social change philanthropy.

A Word About Practical Uses of What We Know

In immediate practical terms, these conclusions are probably not good news for the newly established feminist and social change oriented philanthropic organizations (like the women's funds) hoping to capitalize on reports that wealthy women are now retaining control of their own money. It is probably not good news for feminist groups which need the support of wealthy women, or for women political candidates who need financial backing. And, oddly enough, it may not be good news for wealthy women themselves. Gloria Steinem put the issues well in a recent issue of MS magazine on rich women:

> "Why are women in today's powerful families less able to work on their own behalf, or to support other women who are doing so? Why is their giving and volunteering more likely to support socially approved causes and organizations that don't support them. Why do most widows keep on donating to their dead husbands colleges while ignoring their own? Why do women give to their family's charitable priority of a local symphony (without even asking why they employ

> so few women musicians), or to an art museum (without challenging the absence of women artists), or to a drug treatment program (without asking why there are few programs for female addicts, even though they outnumber addicted males), or to male political candidates (without apportioning those contributions according to a candidate's position on issues of special importance to the female half of the country)?" (Steinem, 1986:78)

What might it take for women of wealth to begin to shift their philanthropic activity from more traditional goals, issues and modes of operating? What would contribute to developing new social bases for constructing alternative models of philanthropy?

This research review suggests that women in philanthropic organizations do work that is closer to the day to day mission of the organization, that keeps them in closer touch with the clientele of social service agencies, the audiences and consumers of arts and cultural activities, etc. Though this aspect of philanthropic activity does not presently accord women as much power as the fiscal and legal activity done by men, it is essential to the organization and provides women with a vantage point perhaps more sympathetic to the needs of clientele and consumers. In my own research in voluntary social service agencies, I observed, for example, that those most involved in making decisions about financial and legal matters sometimes placed financial stability over agency goals and client needs. Persons involved in overseeing programs and the carrying out of these goals were less likely to do this. (Ostrander forthcoming) This suggests that it is important for wealthy women in philanthropic organizations to not advance their own influence and status by simply taking on traditionally male positions of power as men have tended to define them. Women will need rather to change how fiscal and legal decisions are made as they move into positions dealing with these matters. Women might, for example, insist that the goals of the organization and the needs and interests of its clients and consumers dictate fiscal policy rather than the other way around. Perhaps the structure of decisionmaking in voluntary organizations will need to be changed so there is less division between program decisions and financial ones, so that, for example, the same committees and people make both kinds of decisions.

The point is that one aspect of what it will take for wealthy women to begin to shift their philanthropic activity, to construct a philanthropic alternative, is to use the gender-specific basis of operation they have already established to change not only their own position and that of men, but to change how decisions are made and what those decisions are. In my research in voluntary social service agencies, for example, I saw one newly elected wealthy women board chair consciously engaged in this kind of reconstructive activity. (Ostrander, forthcoming)

The review I have presented here also suggests that a primary base that wealthy women have to build from in constructing a philanthropic alternative is their own subordinate position in the patriarchal structure of their class. My research on upper class women suggests that these women are well aware of their subordinate position both at home and in their voluntary activities, but that the social conditions of their lives are not as compelling in causing them to challenge patriarchy as those in the lives of women of other classes. I do not see those social conditions changing. The power of upper class men is not declining and upper class women have no increasing economic need to work for pay. I do not believe wealthy women will ever support feminist or other movements for social change in large numbers, simply because it is not in their class interest to do so. I *do* think that more *individual* wealthy women can be persuaded into providing support. My reasons are based in two changing social circumstances--one in the behavior of wealthy women, the other in the philanthropic sector.

I believe that wealthy women are and will continue to increase their control over their own money. That is their primary response to the contemporary feminist movement. Rather than seek paid work in large numbers--work which is rigidly demanding in its time commitments, and which does not accord more or perhaps even as much satisfaction or status or influence as decisionmaking positions in voluntarism--wealthy women are coming into their own by taking charge of their own inheritances. They are looking for new ways to exercise their power using their own money. At the same time, new opportunities are arising in the philanthropic sector for giving to organizations and causes focusing on women. Wealthy women are being sought to contribute to these organizations and causes and to become actively involved in them. At lease some of these women will certainly respond.

The question remains whether wealthy women's changing participation in philanthropy will change philanthropy itself, and, if so, what those changes might look like. It is possible that some wealthy women as they are drawn in to the new feminist philanthropic organizations (the women's funds, for example) will find themselves more in contact with women of other socio-economic classes and races and ethnic groups. They may..like their early 19th century counterparts before the great fortunes were made and the classes rendered more separate and distant from one another..develop bonds with women across classes and races. Individual wealthy women may even begin to reject the traditional hierarchical (noblesse oblige) model of philanthropy where the privileged few give to the unprivileged many, and where the privileged retain control over when and how much and to whom to give. For wealthy women to give up *control* over their money to broad-based community groups and organizations, that would be truly an alternative model of philanthropy.

NOTES:

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1. Research on the social causes of philanthropic activity among the wealthy is presently being conducted by Paul Schervish, Andrew Herman, Lynn Remish, and Leslie Sarafeen through the Study

on Wealth and Philanthropy at the Social Welfare Research Institute at Boston College. I have been influenced by them in my thinking about this topic. Teresa Odendahl is conducting similar work through the Program on Nonprofit Organizations at Yale.

2. Established criteria for membership in the contemporary American upper class are: listing in the Social Register of certain cities, membership in certain private social clubs, and attendance at certain private secondary schools. Listings of clubs and schools are in Domhoff, 1970.

3. Even Gordon and Reische's sympathetic portrayal of the Junior League acknowledges the function of the League for creating and maintaining class networks. "In a mobile society," they write "the Junior League provided newcomers to a community with entrance into a group with similar interests and background to the one they had left back home." (Gordon and Reiche, 1982:53)

4. One perhaps typical upper class woman philanthropist of the time, Josephine Shaw Lowell, believed "To give material things... was to encourage the poor in those very traits which led to impoverishment...She was particularly hostile to public welfare." (Saveth, 1980:80)

5. Of Josephine Shaw Lowell, Saveth writes, "Nevertheless, she was not unaware of the relationship between poverty and wrongs that exist on our social fabric." (Saveth, 1980:80)

6. McCarthy writes, "Charity gave them power in a society intent upon rendering them powerless." (McCarthy, 1982:23) Wealthy women at that time did work to improve the skills and working conditions of factory women, and they did take an important role in developing schools for trained nurses. Though these activities had a conservative class agenda--for example the nurses not infrequently became servants in the homes of the rich--some opportunities for working class women were created, and some reform of working conditions did occur.

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WORKING DRAFT

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OLDER GENERATION, YOUNGER GENERATION:
TRANSITIONS IN WOMEN'S VOLUNTEER LIVES

by

Margo W. MacLeod

Prepared for
Women in Philanthropy Panel
20 March 1987

We are faced with two seemingly contradictory bits of evidence: In the first place, almost everyone, lay person or professional involved with volunteers, says with despair, "Nobody volunteers any more. I can't get people, especially women, to do the work the way I used to be able to."[1] Yet, at the same time, when surveys are taken, the number of female volunteers appear to be experiencing only modest declines.[2] If the numbers are correct, then why the prevailing complaint? In what follows I bring together some of the research that sheds light on the changes that have been occurring in women's volunteer lives and discuss some of the less obvious implications of these changes as they affect the volunteer careers of upper middle class and upper class women.

Given the profound changes in the relations of middle and upper middle class women to the world of paid work, it would be surprising if the patterns of women's involvement in volunteer activities were not also disrupted.[3] Jessica Jenner (1981, 1982) has identified three major types of volunteers: those whose volunteer work is a primary career, those for whom volunteering is a supplement to other activities and those who intentionally use the volunteering experience as a way to improve their access to paid work opportunities. Disruption is especially noticeable for the category of people who might have volunteered as a primary career. These are the women who in another era would have been deeply committed to volunteering as serious and meaningful work, putting in thirty-five or more hours a week. These are the women who are dedicated to their family's welfare, but who regard their homemaker activities "as a role, rather than a career" (Jenner 1981: 305). This paper is particularly about the changes and possibilities that are evident for this category of volunteer--variations that are most apparent when looking at the differences between generations and when looking at questions of social mobility, organizational hierarchy and board membership.

Arlene Daniel's[4] work has lifted volunteers' "invisible" careers from obscurity. She traces a variety types of volunteer careers that have been followed by upper class and upper middle class women. Volunteer careers, like those in the paid work force, have followed a set of sequential, incremental steps. A number of possible career patterns or routes to the top have existed. There is, for instance, the kind of woman whose life's work brings her in ever closer contact with a single organization. She gains an expertise over years of involvement with "her" hospital or "her" orchestra, "her" college or "her" child protection agency. She learns the technical jargon, she gains the administrative and financial skills, she gets an intimate knowledge of the organization's history, and she comes to know all the personnel from the janitor to the executive director on a personal as well as a professional basis. When she becomes a member, or an officer, of the board of trustees, she walks through the organization's corridors with a different rhythm than other trustees, or staff, who have not had the same depth of connection to the people, the place and the events that make up the inner life of her institution.

Daniels points to several other volunteer career patterns of interest. Those women who have gained a special skill that is useful to a variety of organizations are called upon by a wide array of groups in the community because of this expertise. Some women, for example, become experts at the kind of creative fundraising that involves broad sections of the community. Following a third, more unusual career pattern puts a woman in the position of community power broker. In this case, her volunteer expertise has included such a wide knowledge of people and organizations in the city that she not only facilitates contacts between networks with otherwise limited connection, but she also acts as a kind of power broker for those trying to use the volunteer route to move up socially.

For the generation of volunteer leaders now in their fifties and sixties, whatever their particular career path, it has been embedded in a life committed to the service of community and family and has been played out in a socio-historical context that has devalued the visible, apparently ambitious woman. An important part of the success of the successful career has been to appear as little as possible: seeking and acknowledging others' participation, and modestly putting others (male) before the public eye while retaining a quietly supportive demeanor have been key components in the expected and preferred behaviors for reaching the top.[5]

These ways are changing. A younger generation of women volunteers do not adhere to such a quiet style of leadership nor do they follow the career paths of their elders. Because the changing patterns of middle class and upper class women's participation in the paid work force means that these classes of women no longer volunteer the same long hours, over years or even decades, major impacts on several dimensions of our lives are certainly plausible. We are likely to see effects on paths to and prospects for social mobility, particularly the woman's role in the process; on life within non-profit organizations, particularly the hierarchical organization; and on the routes to, and composition of, non-profit boards, especially prospects for the involvement of women.

In much of what follows I will draw on research I carried out in Boston. In the early 1980's I conducted ninety-five interviews and did hundreds of hours of observation among volunteers and staff principally in the most prestigious[6] non-profit organizations the city. During the course of this work it became clear that the older generation of women volunteer leaders, those aged fifty-five plus, have attitudes and behaviors markedly different from the younger cohort of women, aged thirty-five to forty-five, who are moving up the volunteer ladder.

Social Mobility: A number of thoughtful writers[7] have provided convincing evidence of the importance of women's volunteer work in providing the social status credentials necessary to upwardly mobile members of the middle and upper middle class, and equally essential to the maintenance of upper class positions. However, this may no longer be true in quite the same way as it has been.

Historically, the volunteering effort associated with Boston's elite institutions relied heavily on the recruitment of new talent and fresh energy from among friends, relatives, colleagues, or, if a broader reach was necessary, from among those who are identifiable by school or *Social Register* as "one of us." But currently, all non-profits, including even the most venerable, are under increasing financial pressure. Their needs cannot be met as they were in the past: out of the pockets of a few very wealthy donors. Increasingly even the elite organizations have had to look to a wider public for fundraising and this has meant widening the base of volunteer support, as well as the criteria upon which appeals to the public are made. To the extent that a prestigious organization's ranks become sullied by the presence of "lower orders", it loses prestige. Social climbing opportunities via such a route become more circumscribed, although there is a time lag before the former polish becomes widely recognized as irreparable tarnished. The Junior League is perhaps the most obvious example of this process. Since it adopted an open policy for the admission of new members, the League is no longer included among those clubs and associations which are counted as markers of high social status by the *Social Register*, yet it is still considered snobbish, exclusive and upper-crusty by much of the public.[8]

Those women who formerly filled their days with the work of various volunteer organizations, to a growing degree fill their days with activities that give them a paycheck. The older generation of upper class women did not have a choice about working for pay. It was "simply not done." Those with the interest, talent and intelligence sought challenging opportunities in the volunteer arena. Those with fewer of these personal assets volunteered anyhow, because it was "expected from someone of my station in life." And, for the upwardly mobile, volunteering was *de rigeur*. Not surprisingly, most of the older generation of women who achieved leadership positions as volunteers confess that they would have sought paid professional work, rather than volunteering, had this been available as an option. Yet because of the lack of opportunities and because of the conventions of their class, they did not to do so.

For the younger generation of women, the nature of the choice is no longer either/or. Young women, including those with upper class backgrounds, have moved into the work force, not only to supplement family income, but also to follow professional careers--careers from which they seek the same kind of self fulfillment, and status enhancement that the older leaders expected from their volunteer commitments. The younger the woman the more likely this is to be the case. Women in their forties are the transitional group. They are the ones who agonize over the choice between paid work and volunteering, while their mothers' generation had no choice and their daughters' generation would not consider volunteering as viable full time work.

Personal angst is greatest for those in their late thirties and early forties who followed the traditional pattern of having children soon after marriage. They find themselves with grown children and husbands with traditional outlooks on women's place.[9] Typically, woman faced with this dilemma say things like:

> Really, I don't know what I'm going to do at this point. The last of the children is off to Harvard, (I'm proud of that!). I would like to go back to my big love which is art. But my husband doesn't want me to work. I've been doing wonderfully interesting things [volunteering] with the museum, but I'd like a paycheck if I could find the job. Still, it would mean that I couldn't always do things with my husband when he travels or has time off. It's a real problem in our lives right now.

For those who did paid work either before marriage, or in the early years of marriage and delayed having children until they were in their thirties, the pattern is somewhat different. They pick up volunteer work as something to do while the children are young, perhaps even in addition to part time paid work: but, they have an employment history that they intend to continue when the children are older. They also have husbands who do not have strong objections to their wives working for pay. In fact, some of these husbands positively insist on it.[10] Volunteer work is not a career, but an interesting pastime, even if, for a few years, the woman puts in thirty or more hours a week. It is this group, and their younger sisters, who are most likely to insist on "meaningful" labor within the volunteer format. These are the women who either want to gain a particular skill or at least use a skill they already have. They do not want to stuff envelopes, pour punch or make crepe-paper decorations. They are oriented to the time when they will be back in the paid work force. Volunteering is an interim measure, so it had better be useful, or at least status enhancing. This group says things like:

> If they expect me to go to meetings in that stuffy little room and sit for hours on those uncomfortable chairs--really! I have paid some dues, and I expect to work in a more professional atmosphere than that!

> What I'm doing here will help me get in contact with some of the movers and shakers in this town. Not that I care about them socially, but I do want to do paid work for something connected with the symphony and there aren't that many paid jobs going in that kind of work. Connections and the skills that I'm picking up doing these fundraisers are critical.

In my own research, the older generation of leaders were mostly not born in the Boston area, but they came from upper class families, and married men whose upper class credentials often included descent from one of the old, elite, Boston families. Among the younger generation of women who are active as volunteers, and are moving towards leadership positions, most are not from upper class families. Neither are they married to men with upper class credentials or old Boston backgrounds. Among those who spend substantial amounts of time volunteering for the prestigious non-profits, the younger cohort is more likely to need that volunteering as a route to higher social status, while the older generation used volunteering more as a marker of their existing status. Given the changes that are occurring in the composition of even prestigious organizations, it is somewhat less likely that those members of the younger generation who cast their lot and their hopes for social advancement with volunteering are going to succeed.

Organizational Hierarchy: Members of the board of trustees have several critical functions. Among them is the hiring, firing and oversight of the paid executive director. Prohibited, at least implicitly, is involvement in the daily functioning of the organization. Contacts between board members and staff members can be regarded as unwarranted interference. Yet this convention is taken more seriously by for-profit concerns than in that part of the non-profit world that has significant activity by women volunteers.

Women whose volunteer career path takes them gradually through the ranks of a single organization over a period of many years, find themselves with an indispensible power resource. They not only have the expertise and the technical background to understand the operations of what can be highly complex professional fields, such as medicine, but they also know the inner workings of the organization in a way that does not show up on the organizational charts. Because they know the personnel and the history, they can and do play a unique role in the life of the organization. They have what I think of as a wild card effect: the ability to cut through hierarchically based concerns and communication channels.

This wild card effect operates in a number of ways. Sometimes a woman will bring the concerns of lower participants to the attention of the board: for example when it is a matter of pay increases for secretaries or janitorial staff the volunteer is able to make a strong case for the increases because she has long term observations of the increased work load and responsibilities handled by this level of personnel. Sometimes the volunteer is in a position to recommend a promotion for a person who has skills, unknown to the rest of the organization, skills that are suddenly needed by another department. Occasionally policies of the board or actions of the executive director are explained to the staff in a way that they find clearer and more agreeable than when the same information is received in memo form. Situations in which the volunteer is a conduit of information between departments of a large organization are far from infrequent. Women act as facilitators in many tricky negotiations between members of the same organization who find it hard to see eye to eye. Neglected organizational resources find appropriate uses when a volunteer matches a need with an unused office, spare funding, or typewriter.

Large organizations serve and are served by multiple constituencies each with different perspectives and objectives. Most large non-profits have administrators, maintenance staff, volunteers, donors and clients: patients or members of the audience say. Hospitals add layers of doctors, nurses and various paramedics, symphony orchestras would add musicians and so on. As career volunteers developed a strong loyalty to the institution they served, they developed a view, that while by no means unbiased, was based neither on receiving or paying for a service, nor on receiving a paycheck. The best of the volunteers were able because of this to gain the sympathy and ear of all the different groups, to be perceived as more impartial and fair minded.

Some of what these volunteer leaders do would fall under the heading of "management by walking around," the kind of style that is favored by some innovative companies (Kanter 1983). Among other things this style is reputed, in combination with other techniques, to maximize use of resources, especially information and creativity. It is also considered a more "humanistic" way to operate, a method that raises at least morale, and probably also productivity. Clearly, having one or two leaders behaving in this manner is not going to have the decisive impact on the morale and functioning of large hierarchically organized institutions. But, if we are to believe the words of the participants, it does make a meaningful difference. One man who worked had worked for most of his life as a janitor at a social service agency commented:

> When Mrs. Noble left, it was a real blow to those of us who work here. I mean, I've been here for 25 years, almost as long as she worked here. Now there's no one I can talk to about things the way I used to talk to her. No one who can get things done. Now you take that Mr. Clinton, [the new executive director] he's a nice enough guy, but he doesn't know the work we do. He doesn't know the kinds of things we've been through. He's not going to speak up for our interests, and he's not going to know or care if my wife gets sick again.

Or, to give an example from the other end of the hierarchy:

> I suppose I shouldn't admit it, but when I first started working here I relied more on Janet Marchison than on any of the staff, or even the other members of the board. She knew more about the personnel and the issues than anyone, and she has an objective, outsider, yet intimate, kind of stance that I have found consistently helpful.

Another organizational factor is in the process of transition: paid volunteer directors are more in evidence and more necessary. There are several reasons for this. Organizations have had to cast a broader net in their search for funds. Free womanpower is no longer available to fill what need to be full time positions. Compared to the system which relies on volunteers to apply themselves to a variety of tasks two, three or more mornings a week, it is logistically more complex to attract and use volunteers who desire to share only specific skills in severely restricted time slots. Unlike volunteer trustees, the paid director is in a relatively powerless position within the organization, and certainly in no way able to cut through the various levels of hierarchy, or to have a direct, continuing impact on the board level. Paid staff do not have the kind of status, social connections, and aura of impartiality of the career volunteer: they are not in a position to represent the volunteers to the board or the board to the volunteers with the directness and glow of prestige managed by the unpaid career volunteer. Ironically, the net effect can be to diminish the import and influence of volunteers in general, both in their own eyes and in the eyes of the board, at the very time when they have become more necessary to the organization's survival.

Boards of Trustees: If we were to hope for improvements in the status of women, counting the numbers of women trustees would not a bad place start. That women are underrepresented on boards of trustees is not exactly news. A fair bit of research has been done showing that even when women are on the board, the boards they are on are less important or prestigious or salient.[11] So, when there is a woman on the board of a prestigious non-profit, it is worth noticing. There are three common methods, used alone or in combination, for a woman to become a member of a prestigious board: she might inherit the mantle of her husband or family, she may donate substantial sums of money, or she may earn the position through a career as a volunteer. Similarly, for men, the route to the board is to inherit the position from his family, to donate money and/or to earn the position through a reputable career in business, law, finance or medicine. Some non-profit board positions are actually part and parcel of high level for-profit positions: it would be known that to accept, say, the bank presidency is to accept responsibility for chairing the board of the museum, and a few other boards as well.[12] Alternatively, at upper level managerial positions, many of the more established firms, companies and financial institutions expect their officers to volunteer for non-profit board work. In theory, then, professional working women who are able to move into upper level or top managerial positions in their for-profit concerns, would also move onto boards of trustees of major non-profits. Very, very few women have yet achieved such positions.[13]

To the extent that a younger generation of women eschew careers as volunteers in favor of either full time or episodic employment, they will also forego the opportunity to reach board positions via the volunteer route. At the same time, they are being blocked from board positions that are normally filled by those who secure spots at the upper levels of management. All other things being equal then, it is probable that for some time there will be no appreciable increase in the numbers of women on the boards of the major non-profits.

A concentration on the absolute numbers of volunteers obscures the kinds of considerations which have been discussed here. Considering volunteers motives comes closer to the mark, especially when combined with an all to rare appreciation of the differences between cohorts. The evidence for historical changes in the rationale for volunteering: from "duty to society" to an appeal to the professional and psychological rewards of volunteer work is well documented and persuasive (Reichlin, 1981). Yet, in the final analysis, it seems to me that the important unintended consequences of women's move into paid work and the consequent demise of the career volunteer need to be looked at with an eye to the social structural outcomes. Given the aversion to volunteering that has been expressed by some feminist writers, it is ironic that reducing the numbers of full-time or career volunteers will mean that, until the upper echelons of business, law and banking open up to women, women in general lose positions of power in the community.

ENDNOTES

My thanks to Sylvia Tesh for reading an earlier draft of this paper.

1. All comments between quotation marks, unless otherwise attributed, are taken from interview data which was tape recorded and transcribed. The interviews were part of a larger study of women volunteers, described more fully in the text.

2. Sommers (1983), among others, argues that while women's participation has declined in terms of hours, it has increased in terms of quality (meaning professionalism), and some organizations such as the League of Women Voters have experienced a drop in members over the past five years in spite of new more aggressive strategies to recruit members (personal communication, F. Pritchard December 1986). Survey data do not necessarily confirm that there has been a significant decline in the number of female volunteers (Independent Sector 1986).

3. While contending that the basic 'volunteer spirit' of Americans remains, Kaminer (1984) confirms that the profile of the volunteer is changing: "Already the army of career volunteers is dwindling..." (p. 212). To the extent that this is true, there is not much agreement as to why. Some contend that full-time employment inhibits volunteering (Lichtenstein, 1983), but others argue that women's volunteer work is related in more complex ways to labor force participation (see, most recently, Stratham and Rhoton, 1986), and still others argue that women's choice of volunteer activity has something to do with cohort (Hoyt, Ollenburger and Gosselink, 1985).

4. Daniels (1985 and forthcoming).

5. Margolis (1979) gives evidence of this style of operating for women who work on political campaigns. Daniels (1985) talks about it as part of the invisibility of women's volunteer work. I have referred to this style as "quiet power" (1985).

6. There is almost unanimous agreement about which of Boston's non-profits are at the top in terms of prestige whether one asks civic leaders, garage attendants, or volunteers themselves.
The methodology of the larger study from which this report is given more fully in my paper (1985).

7. Amory (1960); Baltzell (1958); Domhoff (1970); Ostrander (1984).

8. Anecdotal evidence suggests that at least some Junior Leagues have become bifurcated between members with traditional elite backgrounds and new numbers of professional working women with

middle class backgrounds. (The Junior League does not keep statistics on the background of its members, and I know of no study that explores the class background of League members over time.) Those with elite origins are said to be less interested in becoming members, or are dropping out after serving the minimal provisional period. Those with middle class origins are said to be using the League for its social prestige and for the opportunities it offers for "networking," (and, as a consequence, are correspondingly less interested in the traditional civic commitments expected of League members). Logistical difficulties further the division: women working for pay cannot meet in the mornings and early afternoons; women who are full-time mothers and wives, or who have part-time jobs and young children cannot meet after three o'clock or in the evenings.

League membership has declined somewhat during the 1980's, and the age at which provisional, or new members, join has also gone up, by 1982 34% of the active members worked part or full-time (almost 70% of these were full-time). (A sympathetic historical overview of Junior League history is provided by Gordon and Reische (1982). Recent personal communications with a number of thoughtful staff of the national organization, provided impressionistic, and actual data on current membership and trends.)

9. Schram (1980, 1981) finds that a husband's negative attitude to his wife's working for pay is positively correlated with her volunteering.

10. Rose Coser (1985) points out that for middle class husbands, the wife's job means that he loses power (within the home) but gains status in the eyes of the community because of the visible improvements in the family's style of living.

11. Babchuck, Marsey and Gordon (1960); McPherson and Smith-Lovin (1986).

12. Useem (1984) and Galaskiewicz (1985) are but two of the more recent among many who have documented this type of connection between the for-profit and the non-profit world.

13. In my interviews, I ran across more evidence of career volunteers who were asked to participate on the boards of for-profit concerns, than the other way around. Evidently, when businesses and banks came to realize that they "had to have a woman on the board," many of them looked to those who had achieved prominence and competence through their volunteer work. One woman reported that when she was asked to be part of a venerable financial firm she asked them why they wanted her on their board: "After all, I said, 'I don't have the educational background.' They said, 'We know that, we have a dossier on you for the last ten years.'"

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WORKING DRAFT

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THE CONSTITUTION AND VOLUNTARY ORGANIZATIONS

by

Margaret J. Wyszomirski

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THE CONSTITUTION AND VOLUNTARY ORGANIZATIONS

The Constitution is the fountainhead of legal and political definition for the United States. By codifying a system of limited government, the Constitution provides the basic definition of public powers and purposes. In doing so, it also indirectly draws the distinction between what is public and what is not. By implication, what is not public is presumed to be private. In general, the Constitution even offers a listing of broad categories of concern that are considered to be eminently private and, therefore, are not to be infringed upon by the state except for a "compelling reason" and only if legitimate procedures ("due process") are followed. These concerns include life, liberty and property. To both better protect these private concerns and to facilitate the achievement of public responsibilities, the preliminary terms of the Constitution have frequently required elaboration and interpretation. Thus, as Chief Justice John Marshall observed in Marbury v. Madison (1803), "to say what the law is" is "emphatically the province and duty of the judicial department.

Historically, charitable activities and nonprofit entities have existed at the fringes of these definitional boundaries.[1] In purpose, non-profits engage in activities that provide a public benefit but do not address enumerated public responsibilities, except in the indirect sense of contributing to the provision of the "general welfare". Thus, in terms of purpose, non-profits are quasi-public and have, variously, been regarded as (1) agents of the state; (2) as objects of state support (whether legally, authoritatively, or financially); or (3) as appendages of the state which provide supplementary services or goods that are of public benefit. Indeed, the publicness of non-profits resembles, in some important aspects, the constitutional perspective on the several states. That is, their validity of form and purpose is sanctioned by the federal government, their responsibilities are largely residual, and their authority is delimited largely by prohibitions.

In legal status and structure, however, non-profits have generally been considered to be private entities and, as such, have been protected from governmental "interference" either as a matter of economic rights regarding property or contract or as falling within the penumbra of the First Amendment either by virtue of the civil rights guaranteed to a corporate individual or as implicit in the protected status of their purpose (e.g., as religious institutions). Furthermore, non-profits are not all of a kind. Foundations and trusts would generally fall within the purview of property protection--a concern most strictly scrutinized by the Supreme Court during the first century and a half of the republic but which has allowed of greater governmental involvement and regulation during the past 50 years. Broadly speaking, other non-profits can be regarded as claiming protection under one or another provision of the First Amendment. These include charitable institutions of various types such as religious institutions and expressive institutions (i.e., educational, literary, scientific, and artistic) as well as other kinds of tax exempt organizations such as associations (whether professional, voluntary or mutual benefit) and those that petition government for redress of grievances (i.e., advocacy groups, political parties and community action organizations). Thus, non-profits can be said to have a dual, compound character and a variegated form. They exhibit a diversity of structural and legal forms. They are both public and private, both acted upon and an independent actor. Hence, complexity of constitutional principle and its application derives, in part, from the diversity of the non-profit realm.

This dual and compound character, the pattern of constitutional principle concerning non-profit organizations can be perceived only dimly--a pattern threading below and within the better known weaves of constitutional law and through the different types of non-profits. This pattern is variegated, shifting congruently with the major preoccupations of the Court through 200 years of American history, affected by public opinion concerning both particular components of the third sector and concerning activities and organizations that are merely apparently similar. In other words, the interpretation and elaboration of the place and character of non-profit organizations under constitutional law has occurred within an extremely open system, subject to the influence of considerable and frequent external factors and motivated by different constitutional concerns at different times.

Indeed, the Court (nor judicial/legal scholars) has not approached the general topic of non-profits in the American legal/political system in either a conscious nor coherent manner. Rather, the Court has treated non-profits, variously, as part of other categories of phenomena such as trusts, contracts, corporations, or civil rights. Similarly, at different times, the Courts have focussed on the public benefit aspects, on the private control and personal advantage factors, or on the relative proportions of both. Successively, non-profits have been involved in broader issues concerning the legitimate scope of state (vs. federal) authority regarding personal property, economic regulation, or civil rights protection. Constitutional interpretations of legal principles affecting the non-profits have also been carried on the great tide of nationalizations that has swept through the 20th century--whether this refers to the responsibility for social welfare, the applicability of the Bill of Rights, the de facto process of administratively recognizing non-profit entities (through the IRS code regulations), or the evolution of national institutions of culture, commerce and governance. [2] Consequently, the Supreme Court and constitutional law have treated non-profits in a manner that has been fragmentary, indirect, variable, and often unintentional. Amidst this thicket, untangling the various strands of constitutional principle and identifying the major environmental influences that contributed to the context of those interpretations is a monumental task. In such a brief paper as this, one can merely hint at the complexity and composition of the overall pattern.

The 19th Century Concern With Property

Constitutional historians often divide the history of the Supreme Court into three periods: 1789 to 1864, which focussed on interpreting the relationship between the states and the federal governments; 1864 to 1937, which emphasized the protection of economic rights from governmental interference; and 1937 to the present, which highlighted the protection and expansion of the civil rights of individuals. In the case of non-profits, the first of these periods unobtrusively merges into a continuum with the second since determinations of state and federal authority affecting non-profits assumed an economic character throughout the 19th century.

During the first half of the century, constitutional interpretation was primarily concerned with the form that non-profit activity would take, specifically with questions regarding trusts and corporations. [3] Each of these forms gave rise to controversy concerning perpetuity of action, clarity of purpose, the extent of requisite governmental action, and the balance between public and private benefit. Yet each of these questions was phrased differently with regard to trusts and to corporations. Consequently, the answers the Court pronounced varied.

As Howard Miller observed, Colonial and Revolutionary Americans "did not debate the question of public vs. private responsibility...Public and private philanthropy were so completely intertwined as to become almost indistinguishable."[4] Likewise, charitable activities were generally agreed to include education, religion, relief of the poor and sick, and other general benevolence. What remained questionable was the character of authority over these activities--was it to be public or private?

In the case of trusts, this was particularly problematic. The very form of trusts carried aristocratic and religious connotations that some found out of place in the new republic. Religious trusts, especially, were opposed by Jeffersonians both in principle and in practice. In principle, they seem to violate the prohibition against the establishment of religion. In practice, religious trust were regarded as potentially unprogressive accumulations of wealth (principally land) that could provide a basis for political power to the church. [5] Furthermore, trusts came into being at the will of private individuals and thus required no direct public legitimation but did impose an obligation on government to see that the trust was faithfully carried out in perpetuity. Again Jeffersonians saw this as letting the "dead hand" of the past deprive the living of their rightful patrimony.

For others, the problem of trusts centered on the state's obligation to guarantee faithful execution of a trust while also preserving the inherent public benefit. Paradoxically, faithful execution fell prey to problems of both specificity and of vagueness. For example, the objection the Supreme Court raised in Philadelphia Baptist Association v. Hart (4 Wheaton 1)(1819) was that a trust could not be responsibly carried out if the intended beneficiaries were not explicitly identified. In Hart, the Court ruled that the "ill-defined and ever-changing membership" of the Baptist Association was "too vague and uncertain to constitute a legal beneficiary". Subsequent Virginia Court of Appeals cases found the designation of "needy and respectable widows" [6] or of"poor children in a particular school district"[7] were equally unacceptable as indefinite and uncertain beneficiaries.

Inherent in the Supreme Court's ruling in Hart was the assumption--later proven erroneous [8] and eventually overruled in Vidal v. Girard's Executors (2 Howard 127)(1844)-- that there had been no equity law precedent supporting the device of charitable trusts for indefinite purposes prior to the passage of the Elizabethan Statute of Charitable Uses in 1601. [9] As many states had repealed or otherwise abolished their English law code legacies (and with this the 1601 Statute of Charitable Uses), this meant that in many states there was no statutory support for the enforcement of charitable trusts for indefinite beneficiaries. Furthermore, a number of states--notably Virginia, Maryland and West Virginia--were hostile to charitable trusts of any kind, while other states--specifically New York, Michigan, Wisconsin, and Minnesota--were inhospitable to charitable trusts even when the public benefit was specified. Indeed, concern that the "object and purpose" of a charitable trust must be "clear, definite and certain" has persisted in judicial opinions of state courts into the 20th century.[10]

Conversely, charitable trusts also encountered problems if too specific. One involved the difficulty encountered when an trust for a specified charitable intent cannot be faithfully administered because of changed conditions. In part, this was an outgrowth of the peculiar legal treatment of charity that allowed a private individual, through a trust, to exercise control over the use and disposition of his property in perpetuity. But since the individual was mortal, but the longevity of his control was perpetual, there was no simple way for the necessary adjustment of intentions and purposes to changing circumstances which occurred after the death of the benefactor. If alive a benefactor could see, for example, that intended beneficiaries no longer needed charity, or that stipulated activities might be inexpedient or obsolete means of remedying a social ill. In either case, a living philanthropist could redirect his benevolence; but a dead philanthropist had charged his trustees with an obligation over which they had little discretion for adjustment.

As a consequence, courts were compelled to evolve and recognize the doctrine of cy pres [11] if they were to realize the public benefit that was presumed inherent. Exercising this public oversight was, however, problematic in view of the fact that trusts were considered to be contracts which the states were prohibited from abrogating. Instead the state was expected to affirmatively guarantee and enforce them. Secondly, since many charitable trusts involved issues or parties that were religious in character, involvement by the state in modifying the terms of such trusts might be interpreted as infringement upon freedom of religion. Thus, issues of specificity in charitable trusts seemed to persuade a number of state legislatures and jurists that the public benefit for the long-term was more amenable to governmental oversight if benefactors could be persuaded to present gifts to charitable corporations rather than to create charitable trusts.[12] Once a gift was given to a charitable corporation, it was generally regarded as the property of the corporation and could be used, flexibly, to advance the charitable purposes stipulated in its charter.

With regard to charitable corporations both judicial and general public opinion was more positive. The corporate form seemed to partake of many of the advantages of a trust yet avoided some of its disadvantages and unpopular associations. Corporations had the same characteristic of perpetuity but had more latitude for breadth of purpose. In itself, that purpose defined the public benefit to be realized; hence, definiteness and specificity of beneficiaries was not a question. Similarly corporations were capable of purposive adjustment through a consensus of the organization's directors; trustees required approval of a court of law if their commission was to changed from the original. Corporations represented a plurality of interests and intentions that made it seem more broad based (and therefore public) than trusts.

Before at least 1837, corporations required the public sanction of a legislative act granting incorporation. This charter underlined the public nature of such an entity while simultaneously establishing its individuality. Hence the "body corporate" exercised the rights and privileges of an immortal individual enabling it to hold property and manage its own affairs. Furthermore as the Supreme Court held in the Dartmouth College case (1819), a charter was to be regarded as a contract between the "body corporate" and the chartering government which could not be impaired by government alone (although it could be amended by agreement of both parties). Thus, while a trust created an obligation that the state was expected to oversee and enforce, a corporation was regarded as an individual due protected contractual and property rights.

The Supreme Court under Chief Justice Marshall staunchly maintained the inviolability of contracts from alienation by state legislatures even through it allowed for some case by case adjustment according to legislation that predated a contract (Ogden v. Saunders 1827). When the court allowed such adjustment, it did so without enunciating a principle of constitutional interpretation and therefore severely limited the impact of such accommodation. Thus at the very time (1819) at which the court was discovering objectives to the form of charitable trusts in the Hart case, it was validating and indeed strengthening the device of the charitable corporation in the Dartmouth College case.

This is not, however, to imply that the corporate form did not carry any unfavorable connotations. What was regarded as the negative example of the British experience with religious corporations saw them as monopolies over land and wealth that alienated it from private use. Furthermore, as governmentally chartered entities, religious corporations seemed to violate the American notion of the separation of church and state and were, therefore, inimicable to the prohibition against the establishment of religion. In a general sense, therefore, antagonism toward religious corporations gave all charitable corporations a "bad name".

With the rise of Jacksonian politics antagonism was aroused toward business corporations, especially the banking corporations. [13] Since all corporations up to this time, both charitable and commercial, required legislative incorporation, the Jacksonians regarded them as undemocratic both in creation and in effect. Commercial corporations were sometimes granted natural monopolies by their charters and potential competitors were restrained by legislative refusals to grant other charters. Both the effective monopolies and the differential lobbying resources exhibited in legislative incorporation decisions prompted Jacksonians to regard corporations as undemocratic. Again, this unpopularity of the corporate form "tarred" charitable corporations with the same brush.

Indeed, it was one of the lasting reforms of the Jacksonian period that states began to enact general laws of incorporation that routinized the process for the creation of all corporations. This not only made the corporate form acceptable in the view of the public opinion, but it also encouraged the employment of the accessible and increasingly common corporate form rather than the more particularistic trust format. Finally, as already noted, many states took the position that the self-adjusting capacity of charitable corporations made them more likely to continue to perform services of public benefit without the oversight of the government that was required to enforce and adjust specific trusts.

Thus, the major impact of the Supreme Court prior to the Civil War was to help create an environment amenable to the development of charitable corporations. It did this, in part, by giving preferment to the corporation rather to the trust as the structure for charitable activity. Secondly, it established the legal standing of a charitable corporation as an individual with constitutionally guaranteed economic rights concerning property and contract. During the first period of its history, the Supreme Court left the determination of other legal issues regarding the character of charity and its organizations to the jurisdiction of the several states. The state were, variously, hospitable or constraining. Some states, such as Pennsylvania, New Jersey, and Massachusetts, encouraged the establishment and prospering of charitable organizations. Others, like New York, imposed legal limits on the amount of endowment a charitable corporation might hold an instituted caps on the proportion of an estate that might be donated to charitable purposes. [14] Even when, in Girard in 1844, the Supreme Court backed away from the restrictive interpretation it had pronounced in the Hart case, it was more permissive on the question of acceptable specification of beneficiaries but otherwise it relied on consistency with state law. Indeed, this deference to state law allowed different states, in effect, to choose whether they would develop a permissive or a restrictive policy toward charity. That is, the states were to decide whether to follow the principles laid out in *Hart* or in *Girard*, as well as whether to foster corporations or trusts as the preferred form of charitable organization. The effect was to generate uncertainty in the charitable impulse whereby the intentions of would-be philanthropists might or might not be accomplished depending upon where they resided and what instrument they chose to administer their benevolence. As with many other aspects of then contemporaneous legal principle and practice, the states were allowed significant latitude for difference. As a consequence, the very flexibility that an expansive federalism encouraged also generated uncertainty and inconsistency in the law and in charity.

Some of this flexibility was reduced following the Civil War as the Supreme Court sought to elaborate its definitions concerning economic rights and the legitimate reach of governmental action regarding those rights. In protection of economic rights the Court fostered a laissez-faire environment that limited federal regulation to instances where compelling public interest existed. Furthermore, the Court sought to review and constrain state action through the invention of substantive due process. States themselves undertook the modification of restrictions they had imposed on charitable activities and organizations, as was the case in New York.

During the progressive reform era, both business corporations and government organizations came under heavy criticism for corruption, concentration of power, and excessive self-interest. But non-profit corporations escaped much of this censure. They were private enough to present an acceptable alternative to government (especially municipal machines) for meeting social needs and improving social conditions. Conversely, they were generally seen as publicly acceptable uses of private money (even if the profits of so-called robber barons) to avoid the feeling against corporate trusts and monopolies in the commercial realm.[15] Thus, during the second half of the 19th and the early 20th century, non-profits enjoyed expanded judicial protection under economic rights principles; enjoyed a generally favorable public opinion as they met increasingly clear social needs and demands; and profitted from a developing economy that made financial and personnel resources available.

The Modern Concern With Civil Rights

During the third period of the Supreme Court's history it has emphasized concern for the civil rights and liberties of individuals. This has been accomplished through the development of two doctrines that have expanded constitutional protection and federal enforcement of that protection, namely the establishment of preferred freedoms and the incorporation and nationalization of the Bill of Rights. These doctrines slowly began to evolve in the early decades of the 20th century and gained momentum after the late 1930's as the Court abandoned its strict scrutiny of economic rights. The most preferred of civil rights were those included in the First Amendment, beginning with speech in 1925 and quickly expanding to freedom of the press (1931), the free exercise of religion (1934) and freedom of assembly (1937). The Court also recognized the preferred status of the concept of due process, and began specifying what necessary procedures were to be required in 1932. In 1947, the prohibition against the establishment of religion was incorporated and, in 1958, so was the freedom of association. Other rights enumerated were cumulatively added to the "Honor Roll of Superior Rights" throughout the 1950s and 1960s until all but a few (i.e.,those named in the 2nd, 3rd, 7th, and 10th Amendments and the grand jury indictment provision of the 5th) were nationalized. This line of development in constitutional law would seem to hold particular significance for non-profit organizations since most, and especially charitable organizations, are inherently engaged in First Amendment activities. Thus, an expansion of protection for civil rights would seem to promote a favorable environment in which non-profits might flourish.

Additionally, it should be noted that although the judicial era of civil rights is usually regarded as supportive of the individual, these same interpretations are also applicable to non-profit organizations. At least since the Dartmouth College case, the Court has maintained that, in its eyes, the individuality of corporations grants them the character of individuals with constitutional rights. This was reiterated as being incontrovertible and the scope of such rights could be insulated from state (as well as federal) action in 1885.[16] Hence, prior to the Supreme Court's enunciation of preferred freedoms and the gradual nationalization of the Bill of Rights, it had established that those same rights and protections would be applicable to corporate entities. Therefore, both in terms of standing and in terms of substance, non-profit organizations (most of which had acquired corporate form by the second half of the 20th century) would seem to be due especially protected status.

Contextually, it must also be noted that the federal government had taken another step toward centralization. The institution of a federal income tax in 1913 created, in effect, a national system for chartering non-profit organizations through the according of tax exempt status and of selectively conferring tax deductible privileges to patrons of some non-profit organizations. This innovation had two noteworthy, but largely unintended, effects. First, it preempted much state discretion and differences concerning the recognition and regulation of charitable organizations. Eventually this would effectively minimize the pronounced variability in the attitude of different state governments to philanthropic entities that had been characteristic during the 19th century. It may, therefore, be argued that the institution of a federal income tax system helped rationalize and equalize the pattern of legal treatment of non-profit organizations in the states.

Secondly, and far more subtly, the charitable tax deduction provisions of the "new" federal tax system both recognized and encouraged a change in the character of the private benefit that philanthropists enjoyed from their benevolence. Historically, the private benefit accruing to philanthropists had involved the control and direction of their benevolence and the moral and personal satisfaction they enjoyed from the effects of those actions. However, developments around the turn of the century had the effect of depersonalizing much of philanthropic activity. This occurred in two ways. First, various non-profit activities, such as higher education, the arts, and social work, began to professionalize and these new professionals began to assume direction of charitable activities and organizations from the donors. Secondly, as the scope and scale of charitable activities and organizations expanded greatly,(with some even becoming allied to or assumed by governments during the Progressive era), the personal link between benefactor and recipient became more distanced and less personal. Thus,as the private benefit for donors derived from personal direction and a sense of personal satisfaction diminished, it came to be replaced by the economic benefit that tax deductions provided.

The foregoing conditions would lead one to expect non-profits to flourish during this civil rights ear and there is evidence that his expectation has been realized. For example, the rate of foundation creation increased in each decade between 1910 and 1969, with the most notable proliferation occurring during the 1940's and 1950's.[17] Similarly, the number of artistic and higher education institutions as well as their public attendance increased dramatically between the end of World War II and the early 1970's. Certainly, public interest and community action organizations proliferated and the scope of their activity widened during the same years.[18]

During this same period, government assumed greater responsibility for certain traditional social welfare services, particularly in the areas of poor relief, health care, education and research. One could, therefore, posit that this growth in public philanthropy may have allowed private philanthropy to stimulate expansion in other areas. Indeed, Frank Dickinson found that the ratio of private giving to income has remained stable and even risen since 1929 despite the significant increase in public philanthropy.[19] In combination, modern public and private philanthropy have improved the standard and quality of life considerably. In doing so, they has also raised the expectations of the general public that these socially necessary and desirable ends will be met.

Recently, however, the flourishing of the third sector seems to have peaked. Although this does coincide with the evolution of a less liberally activist Court under Chief Justice Burger, this does not represent a fundamental refocussing of constitutional interest as had occurred in the 1930's: the civil rights era has continued. Thus, the general constitutional context can be said to have remained relatively consistent, yet the fortunes of the third sector seem to have plateaued, if not actually declined.

In part, this may be attributable to the consequences of its prior expansion. The rapid growth and proliferation of non-profit organizations in a number of fields during the 1940's, 1950's, and 1960's increased the competition for charitable money. As both governments and businesses became engaged in traditionally philanthropic activities (i.e., higher education and health care, respectively, non-profits also found themselves in competition for public money and for earned income. These developments were exacerbated by a systemic recognition of finite resources and by troubled economic conditions that simultaneously generated a scarcity of financial resources in all sectors and increased the competition within and between sectors for those resources.

Once again, as governmental and legal policies have tried to adjust to these changed circumstances, they have set in motion conditions that are affecting non-profit organizations. Two areas that bear further research and analysis are the developing lines of case and administrative law concerned with the fund-raising and the lobbying activities of non-profits.[20] The *Schaumburg* (1980), the *Regan v. TWR* (1983), and the *Cornelius v. NAACP*(1985) cases show that, substantively, civil rights guarantees continue to shield the freedom of non-profit organizations and activities. However, both these cases and the recurrent revision of OMB regulations concerning the lobbying activities of non-profits indicates that the government is taking a less positivist role in assisting non-profits to exercise fully those rights.

Indeed as Justice Rehnquist noted in the opinion for *Regan v. TWR*, first amendment protection does not require the government to subsidize protected activity, either directly or through tax expenditures. Procedural regulations and restrictions concerning fundraising and lobbying do not infringe on those protections but they do create obstacles upon the extent to which rights can be exercised. Additionally, wholesale tax reform is likely to diminish the economic incentives for contributors. Consequently, non-profits find their capacity to merely maintain services and financial support undercut on a number of fronts simultaneously.

Responding to these challenges is not simply a matter of temporary crisis management. Rather, it poses two fundamental challenges to the third sector. First, it constrains their ability to lobby for changes in policies and laws that effect their resources and operations. To limit the advocacy capabilities of some is to invoke a basic flaw of the pluralist democratic political system. Thus, in the long run, the public interest will not be served. Secondly, it limits the capability of non-profits to fulfill their purposes of providing public benefits effectively and sufficiently. Unsatisfied public expectations and needs can lead the public to question the privileges and even the purposes of non-profit organizations (as well as of other social institutions). Therefore, the very legitimacy and raison d'etre of non-profits is undermined.

Under our constitutional system, non-profit organizations have been doubly recognized as embodying both public and private interests and benefits. The balance and character of this duality has, however, been variable. Nevertheless, the requisite characteristic of a functional balance has remained constant: it must be legitimate to society. During the 19th century, the balance was struck so that private interest was directed to public benefit through a court approved focus that employed economic rights and methods to support purposive, socially beneficial ends. During the 20th century, a subtle and, I think, unintentional inversion has developed. Public benefit has been pursued through the provision of private economic incentives. Thus the

Court's focus on purposive goals concerning civil rights has served to rationalize both the economic advantage of donors and the economic regulation of non-profit organizations.

ENDNOTES

1. Gilb (1981) and Wyszomirski (1985).

2. Karl and Katz(1981); Polsky(1986); Dickinson(1970); Hall (1984); and Berle and Means (1933).

3. As Irvin G. Wyllie (1959) put it, "Which conforms better to the spirit of free insitutions, the publicly sanctioned charitable corporation or the privately created charitable trust?", p. 203; Also see Blackwell (1938); Fremont-Smith (1965).

4. Miller (1961), p. xi.

5. Miller (1961), pp. 42-47; Hall (1984) see chapter 6.

6. Gallego's Executors v. Attorney General, 30 Va 450 (1832).

7. Janey's Executors v. Latane et. al. 4 Leigh 327 (1834).

8. For discussion of the Magill v. Brown Circuit Court decision of 1833 provided new research that justified the position the Court would take in Vidal. See Wyllie (1959).

9. Fremont-Smith (1965), pp. 37-39.

10. See for example a 1922 Missouri case quoted in Blackwell (1938), pp. 24-25.

11. For discussion of this doctrine see Blackwell (1938), pp. 6-7; and Fremont-Smith (1965), pp. 31-34.

12. See for example the opinion in a 1866 New York case quoted in Fremont-Smith (1965), p. 39. Similarly in Virginia, Blackwell (1938) observed that "...the only satisfactory procedure available to the charitably inclined...<was> to make the gift or bequest directly to a charitable corporation for one or more of its corporate purposes," p. 10. He goes on to say that the Vir-

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ginia and Maryland courts evolved this position "because of a belief the statutory and judicial control would be more effective over corporate charities than over charitable trusts," p. 12.

13. Schlesinger, Jr. (1945), pp. 334-336.

14. Hall (1984), pp. 120-121; and Fremont-Smith (1965), p. 39.

15. The major exception to this treatment was foundations. As the most private appearing of non-profit organizations, foundations came under public attack and scrutiny during the early 20th century. This culminated in the Walsh Commission hearings, see Fremont-Smith (1965), pp. 50-51; Karl and Katz (1981); Lankford (1964), pp. 8-19.

16. As Chief Justice Waite said for the Court in Santa Clara County v. Southern Pacific Railroad (118 US 396) (1885): "The Court does not wish to hear argument on the question of whether the provision in the Fouteenth Amendment to the consitution which forbids a state to deny to any person within its jurisdiction the equal protection of the laws, applies to...corporations. We are all of the opinion that it does."

17. Fremont-Smith (1965), pp. 45-46.

18. See for example Roelofs (1984-85).

19. Dickinson (1970), p. 26.

20. For further commentary see Hopkins (1984); Hopkins (1980); and Yarmolinsky (1980).

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DEMOCRACY AND VOLUNTARISM: PARALLELS IN THEORY AND PRACTICE

by

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DEMOCRACY AND VOLUNTARISM: PARALLELS IN THEORY AND PRACTICE

Jon Van Til

> In a pluralistic and fragmented democratic social system, made up of many types of individuals and groups, a major requirement is that the system establish procedures to provide for full communication, or orderly confrontation and conflict resolution, and for the coordination and blending of the energies and interests of the disparate subgroups.
>
> Eva Schindler-Rainman and Ronald Lippitt (1975: 6)

This paper explores interrelations between voluntary action and democracy. Many of these connections are familiar ones regularly examined in the social science literature: citizen participation in public policy implmentation, participation in social movements, voting, and other modes of voluntary electoral participation. Others are more indirect, and come from service as a board member of a social service organization or as a participant in a neighborhood association (Cf. DeLaat, 1987 forthcoming).

Whatever the form of voluntary action, it has been contended that voluntarism serves as a school for democratic action and is central in the development and maintenance of a fully democratic society. This contention will be examined in the context of the varying forms of democratic theory. In a previous paper (Van Til, 1982), I have identified five major forms of democratic theory, building on the work of political theorist J. Roland Pennock (1979). In this paper, I shall review those five varieties of democratic thought, will relate each to conceptions of voluntarism, and will seek to arrive at a set of criteria by which different forms of voluntary action may be evaluated in terms of their contribution to the advancement of democracy.

Pennock defines democracy in two main ways, one ideal and the other procedural. The ideal definition focuses on the concept of "government by the people, where liberty, equality and fraternity are secured to the greatest possible degree and in which human capacities are developed to the utmost, by means including free and full discussion of common problems and interests" (1979: 6). The procedural definition sees democracy as:

> "Rule by the people" where "the people" includes all adult citizens not excluded by some generally agreed upon and reasonable disqualifying factor, such as confinement to prison. . .or some procedural requirement, such as residency within a particular electoral district for a reasonable length of time before the election in question. "Rule" means that public policies are determined either directly by vote of the electorate or indirectly by officials freely elected at reasonably frequent intervals and by a process in which each voter who chooses to vote counts equally ("one person, one vote") and in which a plurality is determinative.

These definitions are seen by Pennock to be congenial with a multitude of theoretical forms for their implementation. Such competing "power" theories, as Pennock calls them, define those who hold power and the forces that restrain that power. Five such power theories are identified: populism, idealism, pluralism, neo-corporatism, and social democracy. Populism is a theory of democracy which empowers the many, and provides few limitations on their power. Idealism also involves rule by the many, but under prescribed constitutional limits. Neo-corporatism provides for control by elites, under constitutional empowerments. Pluralism, another elite theory in its conventional presentation, relies upon social arrangements for the limitation of power. The final type of democratic theory, social democracy, provides for rule for the many under limits of social arrangments.

These forms of democratic theory each provide a distinctive approach to the problems of institutionalizing the democratic vision in complex and large-scale societies such as our own. The following section examines each of these approaches in greater detail.

FIVE FORMS OF DEMOCRATIC THEORY

1) Populism

Populist visions of democracy are among the easiest to conceptualize, and the most difficult to organize, in societies as complex as our own. Most simply, populist democracy is that of the town meeting, the referendum and recall, the long ballot, and the theory of participatory democracy. As an historical movement in American society, populism has featured the voluntary action of farmers joining the Grange and citizens flocking to the support of William Jennings Bryan. More recently, populism has taken the form of environmental concern, preservation of farmland, and evangelical preservation of tranditional moral standards (Boyte, 1981: 65). Populism involves a belief in the importance of decision-making by all members of a constituency, direct and unmediated, on those issues of most central concern to the constituency.

2) Idealism

Idealism is one of those "polysemic" terms that plague readers and creators of social science—that is, it is one term with many meanings. In political theory, idealists are those descendants of Plato, Aristotle, T.H. Green, and Rousseau who view the polity as the locus of dialogue and mutual enlightenment. The the idealist, political participation is, as Robert Paul Wolff put it, the establishment of one's place in a "rational community. It is an activity, an experience, a reciprocity of consciousness among morally and politically equal rational agents who freely come together and deliberate with one another for the purpose of concerting their wills in the positing of collective goals and in the performance of common actions" (1968: 192).

Politics, in the idealist vision, is not mere bargaining and the advancement of the self-interests of individuals and groups; rather, it becomes a process of mutual education and the creation of community. Idealism is a theory of reflection, intellect, and the refinement of institutions. But how well does it reflect the realities of human motivation as they confront the political system? In particular, how does idealism transform personal interests into the advancement of the general good? Building on the critique of idealism as impossibly rational, the pluralist perspective has sought to explain how democracy "really works".

3) Pluralism

Another polysemic term, pluralism in the context of democratic theory refers to the balance and competition among groups and their interests in political society. The core of the pluralist vision has been powerfully expressed by Durkheim: "A nation can be maintained only if, between the state and the individual, there is intercalated a whole series of secondary groups near enough to individuals to attract them strongly in their sphere of action and drag them, in this way, into the general torrent of social life" (1958: 28).

To the pluralist, the individual is preoccupied with personal concerns and interests—economic, family-based, religious, and ideological. As a citizen, the individual is hardly eager to participate in dialogue and communal determination. Rather, he or she must be "dragged" into the torrent of the political process. This participation is seen by the pluralist as best accomplished by means of the voluntary association.

A theory greatly elaborated in American political science by Arthur Bentley, David B. Truman, and Robert A. Dahl; in political sociology by Robert Nisbet, William Kornhauser, and Seymour Martin Lipset; and in economics by A.A. Berle, Gardner Means, and John Kenneth Galbraith—pluralism has tended to focus on the need to preserve the autonomy of the major societal sectors (polity, economy, associational, and cultural) in decision-making, and on the preservation of multiple centers of power in each of those sectors (Cf. Novak, 1982). Attention has also been paid to the quality of the civility and decisions produced by multiple and cross-seaming membership patterns.

4) Social Democracy

The critics of pluralism ruled the roost in the political thought of the 1960s and the 1970s. They probed relentlessly the weaknesses of the pluralist vision, contending that pluralism is elitist and inegalitarian in its point of departure, insufficiently aimed toward the provision of justice in its quest to balance interests, ignorant of the bureaucratic realities of many less than "voluntary" associations, and destructive of the ties of political community. Further, they have argued, the claims of some pluralists that the theory describes decision-making in America are both overblown and wrong: rather than balancing institutional interests, American political society demonstrates an overarching power of corporate decision-making.

Social democrats claim that modern societies have not developed democratic institutions which succeed in protecting against rule by the wealthy (Cf. Bowles and Gintis, 1986). Gar Alperovitz, one of the most searching of these thinkers, has written: "A major challenge of a positive program ...is to create 'commonwealth' institutions which, through decentralization and cooperation, achieve new ways of organizing economic and political power so that the people (in the local sense of that word) really do have a chance to 'decide'" (1973: 64-65). Social democracy, Alperovitz argues, provides the most direct path to Pennock's "rule by the people"—distant as that vision appears from the realities of power and decision-making in contemporary politics.

5) Neo-Corporatism

Political theories, like old soldiers, appear never to die, but fade in an out as the moods and circumstances of history dictate. The democratic theory whose intellectual star waxed in the 1980s is neo-corporatism, a theory most intellectual historians had consigned to the dustbin of discarded ideas, particularly after Mussolini's disastrous flirtation with the concept in Fascist Italy.

And now we encounter the "new corporatists", armed with the contention that the concerns of pluralism are passe, and that contemporary political realities involve a balancing of the only three interests that matter in the worlds of power: business, government, and labor. Moreover, these latter-day descendants of Saint-Simon and Cole argue that the balance of power has slipped into the hands of government bureaucrats, who have become the key brokers of societal power as they arrange "understandings" between business and labor that determine the rate of inflation, the level of unemployment, and the general fate of the interlinked and complex contemporary political economy.

Phillippe Schmitter (1974) has noted that the corporatist hypothesis assumes that societal integration is not adequately accomplished by the market, but requires top-level decision-making among economic and political elites. In their assertion that such organization is required of business, as well as labor organizations, neo-corporatists depart from conventional pluralists, who view business as operating in the context of the market and politics as centrally involving the bargaining a wider variety of social and political interests.

VOLUNTARISM IN DEMOCRATIC THEORY

Conceptions of voluntarism—how we define it and how we value it—relate closely to the major forms of democratic theory. Just as we divide ourselves in our political valuations on the bases of these five conceptions and the ideologies that emerge from them, so do we develop distinct conceptions of voluntarism as we adhere to one or another of these positions. It is my belief that we need to understand these differences in perspective, and in the remainder of the paper I shall seek to identify some of these differences and to discuss their implications.

My rather simple hypothesis in this paper is that we can identify five major versions of voluntarism theory and ideology—populist, idealist, pluralist, social democratic, and neo-corporatist. Theories of voluntary action run parallel to theories of democracy, I contend. To examine this contention, it will be useful to look at each theoretical form as it approaches voluntary sector activity. In this discussion, I will refer to three principal forms of voluntary action: service activity, aimed at the alleviation of distress and the enhancement of quality of life; self-help, aimed at the advancement of common goals of those sharing a similar life condition; and grassroots/advocacy action, aimed at the clarification and advancement of social-political interests of citizens.

Voluntarism in Populist Theory

As was mentioned earlier, populism tends in American theory to be a point of departure for criticism rather than a fully developed guidance theory for democracy. From the populist perspective, service volunteering would appear to be of little salience, but grassroots action and self-help may be seen as central.

Perhaps the most far-reaching examination of populism as citizen democracy in action emerges from the historical analysis of Lawrence Goodwyn (1978). To Goodwyn, the Populist revolt of the 1890s saw the flowering of democratic voluntarism, and was then followed by a period of severe restriction by pervasive corporate power that continues into the present. Populism, Goodwyn writes, "cannot be seen as a moment of triumph, but as a moment of democratic promise. It was a spirit of egalitarian hope, expressed in the actions of two million beings—not, in the prose of a platform, however creative, and not, ultimately, even in the third party, but in a self-generated culture of collective dignity and individual longing" (1978: 295).

The links between populism and volunteering are clearly shown by Goodwyn when he notes that the core vision of populism was:

> a profoundly simple one: the Populists believed that they could work together to be free individually. In their institutions of self-help, Populists developed and acted upon a crucial democratic insight: to be encouraged to surmount rigid cultural inheritances and to act with autonomy and self-confidence individual people need the psychological support of other people. . . .The Populist essence was. . .an assertion of how people can ACT in the name of the idea of freedom. At root, American Populism was a demonstration of what authentic political life can be in a functioning democracy (Goodwyn, 1978: 295-296).

Contemporary populist theorist Harry Boyte has noted that voluntary participation may open "free social spaces that, under certain conditions, can turn into breeding grounds of insurgency" (1981: 63). And economist-sociologist S.M. Miller 1985: 3) states that while "neo-populism" is plagued by "contradictory tendencies within its ideology," it does have the advantage of being a "locally oriented, democratic alternative so centralized socialism. . . .It does so by allowing us to be aware that traditional values and institutions can be and are part of a progressive, radical outlook." But Frank Riessman's warning (1985: 2) is worth consideration: "The new progressive populism will have to tread a careful path, avoiding the errors of democratism and over-response to the moment, while attempting to redress the imbalance that has been produced by big institutional power, particularly big business."

Voluntarism in Idealist Theory

Idealists focus in their democratic theory on the role of dialogue in the building of political community. In the most sophisticated statement of the position, Lowi (1968: 38) writes directly of voluntarism, and his tone suggests the message he later makes explicit—that the private bureaucracies that accrete about the provision of volunteering require public observation and regulation.

Lowi views voluntary action as a threat to democracy, rather than its embodiment, as pluralists are wont to contend. Thus:

> there is the proliferation of groups—"do-gooders" groups—manifestly dedicated to ministering to one problem or another of socialization or social control. Between church school and public school, almost nothing is left to the family, clan, neighborhood, or guild—or to chance. Even sandlot baseball has given way to Little Leagues, symptomatic of an incredible array of parental groups and neighborhood businesses organized to see that the child's every waking moment is organized, unprivate, wholesome, and, primarily, oriented toward an ideal of adjustment to the adult life of rationality that comes too soon (1969: 37).

If the point has not yet been fully digested, Lowi puts it even more bluntly: "All of the larger voluntary associations, as well as most of the smaller ones, have given up their spontaneity for a solid administrative core" (1969: 37-38). The voluntary sector is handmaiden to a repressive and less than fully democratic society: it requires the "tempering" of the "excesses of pluralism" (Wolin, 1968) and the distrust of interests and groups (Lowi, 1969: 296).

Not all idealist thinkers are as negative toward voluntarism as Lowi, however.

Robert Bellah and his associates, in their celebrated Habits of the Heart (1985), take a rather more sanguine view of the role of voluntary action in society. Taking as their protagonist Philadelphia neighborhood activist and city councilman Edward Schwartz, Bellah and associates (1985: 286) develop an almost religious vision of the voluntary challenge: "We have imagined ourselves a special creation, set apart from other humans. In the late twentieth century, we see that our poverty is as absolute as that of the poorest of nations. We have attempted to deny the human condition in our quest for power after power. It would be well for us to rejoin the human race, to accept our essential poverty as a gift, and to share our material wealth with those in need."

The idealist tradition is one that views voluntarism with distrust, and probes the consequences of its association with other forces of bureaucratic and administrative power. Only when legitimated by the active, thoughtful, and deliberated will and voice of the people does the organized voluntary impulse come to be valued by the idealist.

Voluntarism in Pluralist Theory

Pluralists frequently write of the contributions of service volunteering, self-help, and grassroots action—and find little to fault in these approaches, though their emphases vary among the three forms. Service volunteering, when it is discussed by pluralists, is generally valued for its participatory contributions, rather than the service outcomes it provides. In this respect, it is the associational aspect of volunteering that is most central to pluralists. Thus, Berger and Neuhaus write that "Associations create statutes, elect officers, debate, vote forces of action, and otherwise serve as schools for democracy. However trivial, wrongheaded or bizarre we may think the purposes of some association to be, they nonetheless perform this vital function" (1977: 34).

Writing from the perspective of long experience in the development of volunteering, Eva Schindler-Rainman and the late Ronald Lippitt note that volunteering "not only represents a significant contribution to the volunteer's own psychological health and self-actualization. Volunteering offers many experiences necessary to democratic personality development" (1975: 15). Volunteering, to Schindler-Rainman and Lippitt, is an important form of participation in democratic society, and is to be valued for gains it provides to both individual and society. Similar themes echo in the work of other pluralists (See Kornhauser, 1959: 76; Nisbet, 1962: 266; Truman, 1951: 101; and Berle, 1959: 150).

The case for self-help is made even more strongly by many pluralists. Berger and Neuhaus, for example, note the way in which self-help activities allow the fulfillment of public policy. They cite "the growth of the women's movement, which in some areas is effectively challenging the monopolistic practices of the medical establishment." They go on to suggest that the "ideas of such people as Ivan Illich and Victor Fuchs should be examined for their potential to empower people to reassume responsibility for their own health care. Existing experiments in decentralizing medical delivery systems should also be encouraged with a view toward moving from decentralization to genuine empowerment" (Berger and Neuhaus, 1977: 39). Nisbet writes of the contribution of mutual-aid associations in the nineteenth century to the development "of both security and freedom—security within the solidarity of associations founded in response to genuine needs; freedom arising from the very diversity" of associations and their relative autonomy (1962: 266).

The pluralists value each form of volunteering—but in an order of preference:

first, self-help; second, service-volunteering; and third, grassroots action. This order may be explained by their historic preference for order and civility as outcomes of pluralist decision-making. Service volunteering is not usually seen as central to decision-making processes by pluralists, but grassroots organization is often seen as a way of shortcutting more established paths to participation, and thereby of threatening the orderly workings of the pluralist system. The spectre of mass society remains, in the eyes of pluralists, a central threat. Therefore, any form of direct action is viewed with a wary eye.

To the critics of pluralism, however, the theory appears flawed by its bias toward established interests. Pluralism in this view is seen as a system dominated by special interests and pressure groups, one that relegates the individual citizen to a level far inferior to that assigned established groups. Such a system is denigrated as the "corporate liberalism" of a "broker state", as Alperovitz and Faux (1984) put it.

Voluntarism in Social Democracy

The three forms of volunteering under discussion are generally valued positively by social democrats, as well, although once more there are definite shadings among their preferences.

Service volunteering is the most controversial in the social democratic view. Amitai Etzioni, to take a supportive example, speaks positively of the contributions of "service collectivities"—organizations in which "service to otheres and a societal cause is a central value (1968: 539). Gar Alperovitz writes of the benefits that flow from cooperative activity: "voluntarism and self-help can achieve what centralized propaganda cannot—namely engender group involvement, cooperative enthusiasm, spontaneity" (1973: 80). And Michael Lerner notes that the spirit of voluntarism is not entirely foreign to the new democratic theory, though not its highest priority: "it is good to put iodine on scratches, but iodine will not cure a malignant tumor. Obviously, a situation in which people are starving or suffering under intolerable conditions cannot be analogized by minor abrasions; hence the revolutionary movement takes on the struggle against poverty, for adequate food, free and adequate health care, and for welfare rights as high priorities" (1973: 240).

The social democrats are far less cautionary when they consider self-help. Gartner and Riessman (1974), leading students of self-help, point to the contribution of "alternative institutions," many of which operate on the basis of volunteer participation. Among such institutions are cooperatives, hot lines, peer counseling groups, health collectives, and womens' caucuses.

The attractiveness of self-help to social democrats may reflect the belief that such "small groups," to use Lerner's phrase, may easily develop into independent centers of political consciousness and action in times of social change. This faith in decentralized and spontaneous social action also underlies the social democrats' enthusiasm for grassroots movements. Michael Harrington writes directly of the need to take America's "most cherished conservative myth seriously: that the 'grassroots" should be a spontaneous, natural locus of political life. To make this old saw come true will take a radical reorganization of local and regional government in America—and therefore a frontal assault on a bastion of undemocratic, conservative power" (1968: 111).

Neo-Corporatism and Voluntarism

To the neo-corporatist, the major value of volunteering is found in the tax savings it engenders, and not in its strengthening of democracy. The theory centrally focuses on those forms of organization that advance economic interests at the level of collaboration among elites. Such economically-inspired activity, however important, is neither voluntary nor democratic—in that it is remote from the rule of the people. Citizen participation plays a role in restoring traditional values of respect and decency in this theory, but the citizen activist is seen as preferring the pleasures of private life to the rigors of social politics (Pines, 1982).

A rather inchoate tinge of neo-corporatist practice characterizes the administration of Ronald Reagan, although Reagan's ideology rejects planning concepts and trade unions are almost entirely excluded from the joint deliberations of corporation and State (Seidelman, 1982). Key Reagan advisor Edwin Meese, at this writing the embattled Attorney General, has succinctly expressed the low value citizen participation is given by the Reagan team. when asked if citizens would be encouraged to participate in the shaping of a new foreign policy, he replied: "Yes, every four years" (quoted in Wolin, 1981: 4).

An articulate rendition of neo-corporate theory and practice has been presented by "neo-liberal" investment banker Felix Rohatyn. The neo-corporatist ideology abounds in discussions of "public-private" partnerships, and these discussions (as well as the packaged "deals" they lead to) also demonstrate the general absence of either citizen participation or voluntary action. The perspective of this theory, and the residual role it provides for the individual citizen (voter and trade union member) suggests that the theory stands somewhat removed from the "rule by the people".

An examination of the work of President Reagan's Task Force on Private Sector Initiatives shows the neo-corporatist approach to voluntarism. Wrapped in a mantle of glorification of the concept, two major themes of substance emerge: first, that voluntarism is a major source for the provision of social services, and second, that decision-making in the voluntary sector should be the prerogative of a variety of "public-private partnerships". The Task Force came up remarkably short of suggestions as to how to accomplish its goals. Task Force member Richard Cornuelle (1983: 177), a writer and former corporate officer, noted that Reagan's statements on volunteerism often "carelessly" appeal "to a faith that was lost fifty years ago." And, he adds, "Reagan's desperate midterm suggestion that each business hire one unemployed person, a pathetic caricature of what must be done, was greeted with the derision it deserved."

In the hands of thinkers like George Gilder or E.L. Savas, neo-corporatist theory advocates the "privatization" of public services, positing the development of private economies for the provision of formerly public goods. In such a view, voluntary action becomes part of an expanded "private sector", facilitating the reduction of public social service expenses, and calling upon the volunteered contributions of individual donors and actors. Both on grounds of morality and efficacy, the superiority of the corporation and the voluntary agency has been asserted. Harry Hogan (1981), for example, has argued that corporations and voluntary organizations, in an era in which religion has declined, are the major bastions defending us from the perils of "Statist Humanism". Therefore, the "private sector institutions of business and voluntarism must now not only develop a new moral base, but also recapture a leadership position from the state" (Hogan, 1981: 96).

CONCLUSION

This paper has reviewed the role of voluntarism in five contemporary forms of democratic theory, and has identified parallels between these perspectives and prevailing images of the field of voluntary action. It is quite likely that these different positions will be useful in explaining the varieties of evaluation of forms of voluntarism, and that they can shed light on the ways in which leaders within the third sector itself find themselves on different sides of the fence on a variety of issues and concerns.

Certainly research could usefully be conducted on the ways in which these five major perspectives themselves form major third sector ideologies. It will also be important to examine carefully what has happened when thinkers have presented overarching ideological perspectives that have sought to bridge a variety of major perspectives, as occasionally happens in the field. A recent example in the U.S. literature is found in Chandler's (1986) effort to marry pluralist and neo-corporatist approaches. Somewhat more revealing, because sufficient time has passed for response, is the effort of Hadley and Hatch (1981) to develop a theory of "welfare pluralism" in Britain. This theory, which sought to define a role for voluntary and (much more sketchily) proprietary, organizations in the delivery of social services, was initially greeted with strong approbation by leaders of each of the three major British political parties. But, within time, the approach and the reforms it engendered had become the focus of considerable empirical, political, and ideological differences (Cf. Brenton, 1985; Beresford and Croft, 1986).

I conclude by observing that we may well be speaking in more than one language when we gather at the Spring Research Forum and talk of voluntarism and democracy. It appears to be of considerable use for each of us to know both our own perspective, and to identify the positions of those around us. Such knowledge will, at least, offer the possibility that we will be able to communicate with a greater clarity and precision.

Learning that the world of social knowledge is almost as pluralistic as the social world we study is a good first step to take. In that way, we might best start by applying the observation of Schindler-Rainman and Lippitt found at the front of this paper to our own task as social scientists. Rather than talking by each other while using common words of quite different meanings, we might search for a way to modify these value-laden terms into into concepts that will permit us more intelligently to agree on what we disagree about.

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WORKING DRAFT
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Groping for Groups:
The Case of Non-Profits

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"Voluntary associations constitute self-government by the people outside of government." Herbert Hoover [1]

"Multiply your associations and be free." Pierre Joseph Proudhon [2]

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I. Introduction

Groups have always played a vital role in American society. Long ago, Alexis de Tocqueville emphasized the crucial role played by voluntary associations in America. Associations educate Americans to look beyond self-interest, Tocqueville observed, and they serve as an incomparable check against tyranny. In particular, Tocqueville noted, "Nothing more deserves attention than the intellectual and moral associations in America." Yet, he continued,"American political and industrial associations easily catch our eyes, but the others tend not to be noticed."[3] This essay considers the scope of the constitutional right of freedom of association, with particular attention to non-profit associations.

Today, the quest for community is again quite fashionable in many academic fields.[4] Even in law--a realm still dominated by what Karl Llewellyn once called "the vicious heritage of regularly viewing parties...as single individuals" [5] --we have begun to reawaken to the legal ramifications of group identity. Since joining groups remains as American as celebrating rugged individualism, it is not surprising that we have a vague,longstanding notion that the Constitution guarantees freedom of association, though the text does not mention such a right explicitly.

Initially the United States Supreme Court described the right as so basic as to be pre-constitutional,[6] but the parties claiming it lost their case and the Court tied freedom of association to other first amendment rights in the political realm such as freedom of expression on political issues and the right to assemble peaceably and to petition the government for redress of grievances. Another traditional limitation on the right to freedom of association is the idea that recognizing such a right involves of the rights of individuals in the association. Finally, commentators agree that "[g]roup action--whether in the form of speech or otherwise--is legitimately and traditionally subject to greater regulation by government than is individual action." [7]

In this working paper, I question these limiting assumptions. I will suggest that freedom of association should be considered an independent right, to be evaluated along a continuum that focuses on the status of the association making the constitutional claim.[8] I will also suggest that the rights of voluntary associations may be greater than the sum of their individual parts.[9] Much like the press--with whom Tocqueville explicitly linked voluntary associations--non-profit associations perform a vital "checking function."[10] Encroachments upon them merit sensitive constitutional scrutiny.

This is neither the time nor the place to wax theoretical, nor is it possible here to discuss the numerous, tangled roots of our oscillating enthusiasm for groups.[11] Instead,I will briefly review the sudden burst of decisions about freedom of association by the United States Supreme Court during the past five years. I identify three variables which, in my view, help to explain the results and to cut through some of the analytic confusion in these decisions.But there is an important caveat: all three variables are interdependent and intertwined. Not only does the Court generally fail to identify which particular factor it means to emphasize in its recent decisions, but the justices are either muddled in their thinking about these difficult issues or so lacking in agreement that their opinions actually exacerbate the reigning confusion over the extent of constitutional protection for freedom of association.

In closing, I suggest what difference it might make if we were to consider seriously an independent constitutional right for voluntary associations. Recognizing such a right should guarantee careful judicial scrutiny of government regulation akin to what regulation of newspapers is now supposed to receive.[12] At the least, recognition of this right would remedy the serious mistake made in recent decisions which treat discretionary administrative decisions regulating voluntary associations as entitled to the same kind of extreme judicial deference accorded decisions made by legislatures regulating social and economic matters.

II. A Victory for Non-Profits

The most crucial decision for non-profits is also the most recent, Federal Election Commission v. Massachusetts Citizens For Life (hereafter MCFL).[13] Because that decision is not widely-known, and because it illuminates several important themes about the freedom of association, I will describe MCFL in some detail.

Read narrowly, MCFL invalidates a federal restriction on campaign contributions by a non-profit only because the federal law infringes upon core political speech.[14] Read more broadly, however, MCFL determines that it is the non-profit status of the association involved that seems to make a constitutional difference to a majority of the justices. This broader reading is more than plausible;in my view, it may be the only interpretation to make any sense of MCFL. Since the vote was so close and the variables so numerous, however, it may not yet be time for advocates of robust constitutional protection for non-profits to begin popping champagne corks. A closer look at MCFL will illuminate its promise and its puzzles.

The case began when a complaint reached the Federal Election Commission, alleging that a 1978 "Special Election Edition" of the Massachusetts Citizens for Life Newsletter constituted an expenditure of corporate funds on behalf of certain political candidates. Such an expenditure for distribution to the general public would violate section 441(b) of the Federal Election Campaign Act.[15] The lower courts disagreed about whether the Federal Campaign Act actually covered the MCFL newsletter, but agreed that if it did, the statute would be an unconstitutional restriction on political expression. The Supreme Court agreed that the statute did cover MCFL's newsletter, but the justices vehemently disagreed among themselves as to whether the statute infringed first amendment rights.

Splintering of the Court does not make it easy to interpret what a particular case decides, yet it is not surprising to find disagreement in a case such as MCFL. After all, there is deep analytic confusion surrounding attempts to reconcile vital, competing public interests in regulation of the political process, freedom of expression and freedom of association. Long ago, Shakespeare's comment that "Misery acquaints one with strange bedfellows"[16] was extended to politics; it now is apt for efforts to set appropriate constitutional limits at the intersection of groups and the political process.

What does seem clear in the MCFL decision, however, is that a majority of the justices now agree that it makes a constitutional difference what kind of group is doing the speaking. The status of MCFL as a non-profit is the key factor. In this crucial section of the majority opinion, moreover, Justice Brennan writes for a clear majority when he says, "[T]he concerns underlying the regulation of corporate political activity are simply absent with regard to MCFL....Voluntary political associations do not suddenly present the specter of corruption merely by assuming the corporate form."[17] The reason that group status makes a constitutional difference, according to the majority, is that spending by either a business corporation or a union "raises the prospect that resources amassed in the economic marketplace may be used to provide an unfair advantage in the political marketplace."[18]

The fundamental interpretive problem MCFL poses is that it is hard to know how emphatically the majority wishes to draw this distinction among corporate forms. Yet there it is: MCFL would have lost but for its status as a non-profit. But, we must ask, doesn't the MCFL decision really turn on the type of expression involved? Political speech, after all,is often defined as the kind of speech most worthy of constitutional solicitude. [19] This is plausible,of course,but perhaps other variables help explain MCFL.

III. Too Many Variables?

My goal is modest: I hope to provide a working framework to delimit the "operative facts" in disputes about associations.[20] A basic problem associations generally pose for legal analysis is that lawyers grow accustomed to thinking in binary terms such as government/individual or group/individual. As Tocqueville pointed out, "A false but clear and precise idea always has more power in the world than one which is true but complex."[21] I hope I may be forgiven for suggesting that it is helpful to think of recent freedom of association decisions in terms of three, admittedly over-simplified variables:

(1) The first concerns decisions by an association about who is admitted and who is excluded.[22]
(2) The second involves what type of group an association believes itself to be and what identifying legal rubric it adopts or has imposed upon it.
(3) The third involves the external affairs of the association, in particular its efforts to gain adherents or to make others aware of its views while simultaneously trying to obtain or maintain the most favorable regulatory treatment possible, such as tax-exempt status or the ability to organize, lobby, or spend for causes it favors.

The obvious difficulty in our shared experience of associations, as well as in judicial decisions about them, is that the three variables dance in and out of our thoughts, getting wildly different emphases in different contexts. Actually, at least two of the variables are present in all the legal controversies involving freedom of association in recent years. Recognizing this, however, is not so much a problem as an incremental step forward as we try to fight our way through the remarkable tangle now overgrowing legal analysis of associations. It suggests that judges are trying to use a balancing approach when they face tough situations that demand skillful juggling.

A. Intragroup Decisions: Definition Through Exclusion

Guilt by association is never entirely removed from freedom of association. We are known by the company we keep, and we often define our friends by identifying a common enemy.[23] Nevertheless, both the American ethos of individualism and venerable legal doctrines purport to view guilt by association with disfavor. Any number of judicial decisions pronounce that the law is concerned with individuals *qua* individuals, not as members of groups.[24] Still, the question of whether groups may exclude people for any reason or no reason at all continues to trouble the courts. The Supreme Court recently decided, for example, that the United States Jaycees had no constitutional right to exclude women from full voting membership.[25] The majority did not deny that the Jaycees enjoy some constitutional freedom of association. Rather Justice Brennan's majority opinion found Minnesota's interest in guaranteeing women equal access to public accommodations, as defined by state law, sufficiently compelling to override the Court's recognition that "[f]reedom of association...plainly presupposes a freedom not to associate."[26]

In reviewing the Jaycees' discriminatory membership policy, Justice Brennan subdivided freedom of association. He discerned: (1) a substantive due process element, entailing "certain intimate human relationships."[27] The Jaycees could not properly invoke claim this constitutional basis because their group was "neither small nor selective."[28] But Brennan also spoke of: (2) a first amendment associational element, which protected the Jaycees' expressive activities, albeit not sufficiently to override Minnesota's effort to attack sexual stereotyping.

Brennan viewed the first, intimate association type as integral and an end in itself; rather curiously, he regarded the second, expressive association type as instrumental and therefore subject to greater government intrusion. Though Brennan recognized that the two categories of association are not logically exclusive, he adopted a strongly dichotomous view. Since the Jaycees' association claims were perceived to be only of the second, instrumental variety, the majority made the rather dubious argument that requiring the Jaycees to give women full voting rights would not change the character of the association in any fundamental way.[29]

The most persuasive opinion in the Jaycees case-- indeed, in my view, one of the most cogent of all the recent freedom of association opinions -- was Justice O'Connor's concurring opinion.[30] Because she viewed the Jaycees as primarily commercial and therefore subject to extensive government regulation, O'Connor would uphold the regulation. Yet O'Connor argued that the same regulation would be invalid if the association were the type of expressive group which enjoys "First Amendment protection of both the content of its message and the choice of its members."[31] Such an association would approach what she termed "the ideal of complete protection for purely expressive association." [32]

O'Connor therefore urged adoption of a different bright-line dichotomy from that favored by Brennan. Commercial associations, in her view, merit little constitutional protection; expressive associations should receive a great deal. Moreover, O'Connor emphasized the constitutional dimension of governmental intrusion regarding group membership beyond the realm of intimate personal relationships. To an extent, the majority's approach in MCFL can be considered at least a partial vindication of O'Connor's position in her earlier Jaycees debate with Brennan, though neither justice cites the Jaycees decision in MCFL. As you recall, Brennan's majority opinion in MCFL relies heavily upon the status of MCFL as an expressive association. We therefore reach the second variable.

B. Type of Organization: Who Decides?

In the Jaycees decision, Justice O'Connor directly, and Justice Brennan in a more roundabout way, demonstrated how the membership variable becomes entangled with the type-of-organization variable. The Jaycees claimed to be a private club, but they failed to convince the Court that they were really much different from a commercial operation. The MCFL and the Jaycees decisions both illustrate that neither the formal legal form nor a group's self-definition is determinative of the extent of freedom of association it will enjoy.

The justices determine for themselves the category and relative worth of organizations before the Court; and they tie constitutional protection to their own subjective, case-by-case perception. For example, a segregated academy could not use a freedom of association claim to shield its policy of excluding blacks once it publicly solicited business, nor could a law firm use its partnership status to escape the reach of a federal anti-discrimination statute.[33] In NAACP v. Claiborne Hardware [34],however, Justice Stevens's majority opinion invoked freedom of association to invalidate a state court order imposing a huge fine on a local NAACP chapter for its role in organizing and enforcing a lengthy boycott of white merchants in Port Gibson , Mississippi.

Terming group action "chameleon-like, "[35] the Court stressed the connection between the laudable goal of racial justice and the economic sanctions employed by the NAACP. If there were excesses in the course of monitoring compliance with the boycott, Stevens said, it would be improper guilt-by-association to hold the entire NAACP chapter accountable. Stevens summarized the holding that freedom of association protected the economic boycott, at least when the Court perceived an adequate link between private economic means and public political ends, with a curious but revealing rhetorical flourish:

> "A court must be wary of a claim that the true color of a forest is better revealed by reptiles hidden in the weeds than by the foliage of countless free-standing trees."[36]

With little explanation, the Court recently has begun to place primary constitutional emphasis on its own assessment of what a particular organization seeks to accomplish. A case now pending, for example,tests whether the Jaycees decision should be extended to cover the all-male Rotary Club.[37] This case probably will illuminate how the Rehnquist Court will decide what constitutional rule follows from the function as well as the form, of non-profit organizations.

It is important to remember that if a non-profit decides to discriminate in a way that surely would be unconstitutional if perpetrated by a state official, the non-profit might still be able to insulate its action from constitutional scrutiny.[38] Nonetheless, under Bob Jones University v. United States[39], such a victory could prove Pyrrhic because the non-profit might lose its non-profit tax status. Thus, the third variable enters the picture:it concerns, and offers a point from which to think critically about, whether government neutrality is an adequate or even sensible constitutional standard for judicial review of administrative decisions about which associations should receive government benefits or burdens.

C.Group-Government Relationships: Government By Administrator?

In Bob Jones University v. United States, the Court upheld, on statutory grounds, an Internal Revenue Service (IRS) decision to deny tax-exempt status to private schools that practice racial discrimination. Chief Justice Burger's majority opinion did not confront freedom of association explicitly. In part because there was some reason to doubt the sincerity of the religious defenses raised by the private schools, the majority slid past knotty first amendment issues lurking in the case and resorted to a somewhat strained construction of congressional intent--and congressional silence.[40]

With more than a touch of Panglossian optimism, Burger stressed our nation's unquestioned commitment to the eradication of racial discrimination. By definition, according to Burger, such discrimination is inconsistent with what is required to qualify as a non-profit organization under the federal tax laws. The majority upheld IRS discretion to determine tax-exempt status with no more particularity than that the non-profit's activities not conflict with "the public interest, " "the common community conscience" and the "declared position of the whole government."[41] Such standards make it difficult to determine if anyone is guarding the guardians.

Each April 15, we are reminded of how pervasive the IRS often seems, but the Court's manner of deciding Bob Jones--I should not be taken to be attacking the result--allows the IRS virtually unreviewable discretion to determine what "common law, ""common sense, " and "history" tell us about whether a non-profit is comporting with "deeply and widely accepted views of elementary justice."[42]

To make matters worse, the Court has since determined that taxpayers--even taxpayers who were parents of minority students within districts under desegregation orders--could not sue to compel the IRS actually to enforce the policy upheld in Bob Jones.[43] Moreover in Regan v. Taxation with

Representation of Washington, Inc. (hereafter TWR),[44] a case decided the day before *Bob Jones*, the Court unanimously agreed that it was not a denial of either first amendment or equal protection rights to forbid a non-profit to lobby Congress if it wished to retain its §501(c)(3) tax exempt status, though other non-profits such as veterans groups were exempt from the prohibition. *TWR*, which has received little attention, is important for two reasons: First, then-Justice Rehnquist's majority opinion viewed tax-exemptions as a form of "largesse." He stated, "Both tax exemptions and tax-deductions are a form of subsidy that is administered through the tax system...(and)has much the same effect as a cash grant."[45] This approach allowed the unanimous Court to emphasize that the Constitution permits great discretion in decisions distributing such largesse.

The second significant point about TWR is that it illustrates the peculiar application ofimportant principles of neutrality in recent first amendment decisions. Because the *TWR* Court perceived no invidious discrimination against the particular ideas advanced by the particular non-profit involved, it found no constitutional violation. This uncritical approach to hypothetical neutrality in administrative decisions helps explain the anomalous holding in *Cornelius v. NAACP Legal Defense & Education Fund, Inc.*[46] (hereafter *Inc.Fund*). There, in denying a first amendment and equal protection claim of access to an annual charitable campaign in the federal workplace, Justice O'Connor's majority opinion determined rather mechanistically that the federal campaign constituted a "nonpublic forum." Therefore, the 4-3 *Inc. Fund* majority held, absent proof of impermissible motivation in the administrator's decision as to which non-profits would be included in the combined campaign, administrative discretion would prevail so long as it appeared "reasonable."[47]

The central difficulty with this, as in *MCFL* and in *TWR*, is that government neutrality is entirely elusive in these cases. The holdings in these cases are inconsistent; each seems to rest on an unarticulated nexus between how the justices value the particular expressive act involved and how they perceive the relative worthiness of the particular association seeking constitutional protection. Similarly situated non-profit associations may be treated very differently under the deferential standard suggested by *Bob Jones*, *TWR* and the *Inc., Fund* decisions. This trilogy, in sharp contrast to *Claiborne Hardware* and *MCFL*, allows administrators almost unbounded discretion.

This deferential approach overlooks a significant point made by our foremost first amendment scholar , Thomas I.Emerson, who once wrote, "The first amendment's proscription against censorship is itself simply a specialized equal protection guarantee."[48] Specialized equal protection means that judicial scrutiny should be much more exacting than the complete reliance on presumed neutrality in the three decisions I just criticized.

I do not mean to say that the right to freedom of association is absolute nor that a freedom of association claim should always win. I believe that the result in Bob Jones, for example, may well be right--albeit not for the reasons announced by the Court.[49] But I do wish to underscore the artificiality and inconsistency in the categorical approach now in vogue in the Supreme Court. It is unpredictable, if not chaotic. The opinions flit between the variables I have outlined; they give no clear indication of how to tell whether deference to the group's self-definition or its formal legal status or the category of its expressive acts will be decisive. I do not mean to belittle the difficulty in deciding the cases I have discussed. Yet the idea that freedom of association is an independent and important right suggests, at a minimum, that those who seek to regulate non-profits be required to justify their intrusions with reasons far more significant than those the Court accepted unquestioningly, for example, in TWR and Inc., Fund.

The point I want to emphasize in this quick review of very recent freedom of association decisions is that the status of an organization often is the key to the outcome of a case. The other key, also manufactured by the justices themselves, is how they categorize the expressive act involved in a case. To be sure, even within what generally should be the easier cases--cases involving the freedom of speech of individuals, for example--the Court itself, over the years, enunciated a variety of criteria to determine what level of constitutional protection a particular utterance ought to receive. For many years, for example, commercial speech, along with other categories such as defamatory speech and obscene speech, was by definition outside the magic circle of first amendment protection.

Starting in the 1970s, however, the Court announced its "discovery" of first amendment protection for commercial speech.[50] Yet commercial speech still receives less protection than political speech, for example, and newspaper advertisements quite properly merit less judicial solicitude than newspaper editorials.[51] The categorization of speech increasingly is crucial in first amendment decisions.

To summarize, I have suggested that both: (1)the status of the organization and (2)the type of communicative act at stake emerged as critical factors when the Court recently wrestled with the appropriate scope of first amendment protection for expressive acts by groups. Additionally, (3) discretionary decisions which treat similar groups differently have generally been upheld on grounds of a dubious presumption. This is not to suggest that the Court is now or ever has been consistent in scrutinizing cases according to these criteria.

Conclusion

Despite my enthusiasm for very different kinds of groups doing and saying many things, government regulation of some union activity, as well as restraints on corporate speech, may be more properly permitted than restraints on the expressive acts of non-profits.[52] At the margin, certainly, there also will be a need for governmental oversight and some means to ascertain that a non-profit actually is a bona fide non-profit.[53] I advocate thinking about non-profit associations in much the same way we think of newspapers and other organizations which enjoy the protection of freedom of the press. As with non-profits, when newspapers are doing their jobs, they perform a vital "checking function."[54] They amplify voices that otherwise would go unnoticed, they enlighten, and they sometimes even entertain. Whether the press, which is singled out in the first amendment, can claim any exceptional protection is a difficult issue.[55] Without taking a position on these tough legal issues here, I would like to point out that in numerous ways members of the press do in fact enjoy special protection. Access to the best and sometimes the only seats in courtrooms, legislative galleries, and executive "press" conferences may be justified on the grounds that the reporters serve as surrogates for the general public, but there can be little doubt that government officials, and judges, treat the press with special sensitivity. In fact, individual journalists are treated with special care because they are identified with the press, a very special group. In ways often closely analogous to those of the press, non-profits perform a vital function in our society.

This is not a new idea. To return to where we started, Tocqueville wrote, "In democratic countries knowledge of how to combine is the mother of all other forms of knowledge; on its progress depends that of all the others."[56] He noticed "a necessary connection between associations and newspapers,"[57] and compared and contrasted their relative merits and claims for freedom. It was the necessity of associations as a check and a balance in a democracy that Tocqueville stressed. He said, "An association, be it political, industrial, commercial, or even literary or scientific, is an educated and powerful body of citizens which cannot be twisted to any man's will or quietly trodden down, and by defending its private interests against the encroachments of power, it saves the common liberties."[58]

In light of the lack of protection for non-profits we have seen in a number of the recent cases we reviewed, it is ironic that when the city of Berkeley, California attempted to put a ceiling on campaign contributions related to ballot initiatives, Chief Justice Burger's majority opinion struck down the ordinance with a cloud of rhetoric about the American "tradition of volunteer committees for collective action."[59] Since the ordinance touched associational and speech rights, Burger wrote in 1981, it was subject to--and failed--"exacting judicial review." Within the month, the Court had held that a university was constitutionally compelled to open campus facilities, regularly available to student groups, to an evangelical Christian group as well.[60] The constitutional standard in that case was "a level of scrutiny appropriate to any form of prior restraint," which is to say the most exacting scrutiny known to constitutional law. Obviously, in the five years since, the Court has been considerably less exacting in its review of government intrusions upon, or denials of benefits to, non-profit associations.

It is extremely difficult to see a "philosophically continuous series"[61] in the decisions I have discussed. I am not so arrogant as to assert that I have found a solution to these vexing legal issues. What I do venture to suggest, however, is that greater judicial sensitivity to the crucial role of voluntary associations in our society, akin to judicial solicitude for freedom of the press, is both warranted and necessary to supply some elementary structure to the kinds of freedom of association decisions we have reviewed.

1. Quoted in A. Schlesinger,Paths to the Present 286 (1949).

2. Quoted in R.Nisbet,Community & Power xiii (paperback ed.1962),originally published as The Quest for Community (1953).

3. A.Tocqueville, Democracy in America 517 (J.Mayer,ed.,1969).

4. It is sobering,but perhaps a bit encouraging as well, to consider how often enthusiasm for community has been an important part of American intellectual history. See, e.g. R.Nisbet,supra note 2;R. Jackson Wilson, In Quest of Community:Social Philosophy in the United States,1860-1920 (1967); W.McWilliams,The Idea of Fraternity in America (1973).There are many recent scholarly inquiries about community from which law professors are borrowing heavily today. For some of the best recent examples, see Michelman,"Foreword: Traces of Self-Government," 100 Harv. L. Rev. 4 (1986); Symposium on Law and Community, 84 Mich.L. Rev. 1373-1541 (1986).

5. Llewellyn,"What Price Contract?" 40 Yale L. J.704,733-34 (1931). Carol Weisbrod brought this statement by Llewellyn to my attention in the course of her paper at the 1986 Law & Society annual meeting. She was commenting upon a presentation by Zipporah Wiseman, subsequently published as Wiseman,"The Limits of Vision: Karl Llewellyn and the Merchant Rules,"100 Harv.L.Rev.465 (1987).

6. United States v. Cruikshank,92 U.S. 542,551-52 (1875).Chief Justice Waite's opinion is notorious for the astonishingly formalistic way in which the Court read a civil rights statute, thereby freeing whites who had been convicted under the Enforcement Act of 1870 for their role in a bloody riot against blacks in Louisiana.It is ironic,therefore,to find Waite emphasizing that "the right of the people peacably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States." This national right, as Waite defined it,apparently was limited to "consultation in respect to public affairs and to petition for a redress of grievances."

7. Brudney, "Business Corporations and Stockholders' Rights Under the First Amendment," 91 Yale L.J. 235,259. (1981). See also Emerson,"Freedom of Association and Freedom of Expression," 74 Yale L.J.1,6 (1964); Citizens Against Rent Control v.City of Berkeley,102 S.Ct. 434, 436 (1981)(Burger,C.J.).

8. Brudney, id. at 260-61. See also Baker,"Scope of the First Amendment Freedom of Speech,25 U.C.L.A. L. Rev.964,1031-35; BeVier, "The First Amendment and Political Speech:An Inquiry into the Substance and Limits of Principle,"30 Stan. L.Rev. 299 (1978).But see Raggi,"An Independent Right to Freedom of Association," 12 Harv. Civ. R.-Civ.Lib. 1 (1977).

9. This idea seems somewhat mystical.Indeed, Morris Raphael Cohen attacked such notions as "Communal Ghosts in Political Theory" in

M.Cohen,*Reason and Nature* 386-400 (1943) and Harold Laski credited Cohen with disabusing Laski of his earlier idea that corporate personality was real. *Compare* Laski,"Morris Cohen's Approach to Legal Philosophy," 15 U.Chi. L.Rev.575,578-82 (1948) *with* Laski,"The Personality of Associations," 33 Harv. L. Rev.404 (1919) *or* Wyzanski, "The Open Window and the Open Door," 35 Cal. L. Rev. 336 (1947) *with* Douglas,"The Right of Association," 63 Colum.L. Rev.1361 (1963). It is important to notice,however, that even Cohen conceded that "no one can well deny" that "every group has distinctive group marks and ...there is something uniting the different individuals so that they act differently from what they would if they were not so independent."*Id*. at 388.

Among the most interesting recent speculations by law professors about group identity,*see* Cover,"Foreword:*Nomos* and Narrative," 97 Harv.L.Rev.4 (1983); Garet,"Communality and Existence:The Rights of Groups,"56 S.Cal.L. Rev.1001 (1983). One need not go as far as what seem to me leaps of faith by Cover and Garet,for example,to believe that Cohen's concession, Cohen, *id*. at 388, somewhat undermines his attack on Gierke and Maitland and others he charged with the "fallacy of reification."*Id.* at 398.In support of the idea that there may be no such thing as an original idea,a look at Maitland's wonderful introduction to his own translation of Gierke, *Political Theories of the Middle Age* (F.Maitland,ed.,1900)is certainly worthwhile.

10. *See generally* Blasi,"The Checking Function in First Amendment Theory," 1977 Am.Bar.F. Research J. 521.

11. *See* R.Nisbet, *supra* note 2 for a provocative treatment of shifting alliances in the historic debate over community and W. McWilliams,*supra* note 2 for a specifically American analysis.*See also* sources cited in note 9.

12. *See generally* Soifer,"Freedom of the Press in the United States,"in P. Lahav,ed.,*Press Law in Modern Democracies: A Comparative Study* 79 (1985).

13. 107 S.Ct. 616 (1986). In this decision last December, the Court was as sharply-divided as it could be.Justice Brennan wrote for only three other justices in one crucial secion of his majority opinion and Justice O'Connor concurred separately and discussed her concerns over the disclosure requirements of the Federal Election Campaign Act.Chief Justice Rehnquist's dissent for four members of the Court argued that business corporations should not be treated differently from non-profit. Justice White joined the dissent,but noted separately that he continues to disagree with the string of recent decisions extending first amendment protections to corporations.

14. This interpretation is reinforced by the Court's decision less than a week before in Tashjian v. Republican Party of

Connecticut,107 S.Ct. 544 (1986), holding it unconstitutional for Connecticut to condition voting in the Republican Party primary on a registration requirement not desired by the Republicans.Justice Marshall's majority opinion rests on freedom of association for political purposes.

15. 2 U.S.C. §441 (b).

16. W.Shakespeare,The Tempest Act 2,Sc.ii.

17. 107 S.Ct. at 630.Brennan goes on to hold that "Some corporations have features more akin to voluntary political associations than business firms, and therefore should not have to bear burdens on independent spending solely because of their incorporated status." Id.

18. Id. at 628.At this point,Brennan emphasizes the dangers of corruption arising from the fact that resources in a corporate treasury are no indicator of public support,but elsewhere in the opinion he conflates for-profit corporations and unions for purposes of his first amendment analysis. See,e.g.,id. at 629-30.

19. The most famous statement of this approach is to be found in A. Meiklejohn,Political Freedom (1960). A more recent indication of how limiting this approach might prove to be is available in Bork,"Neutral Principles and Some First Amendment Problems," 47 Ind. L.J. 1 (1971). The Court often has emphasized the "indispensable" and "core" quality of political speech.

20.Arthur Corbin, whom Karl Llewellyn identified as his " father in the law" and who was in turn a source of inspiration for Grant Gilmore, is known for his attention to an incredible array of what Corbin termed "operative facts" in the contract cases Corbin collected for his treatise.See G. Gilmore, The Ages of American Law 79-80 (1977).

21. Tocqueville was not describing law school precisely,but rather the crucial role of legal fictions in America when he wrote,"Generally speaking,it is only the simple conceptions which take hold of a people's mind. A.Tocqueville,Democracy in America 164 (J.P. Mayer ed.1969).

22. This was the concern of the first American legal scholar to take the problems of non-profits seriously. See Chafee,"The Internal Affairs of Associations Not for Profit," 43 Harv. L.Rev.993 (1930).

23. See generally K. Erikson, The Wayward Puritans (1967) for a discussion and application of Emile Durkheim's theory to the American penological context. A similar idea has had great influence in our constituional theory,see J. Ely, Democracy and

Distrust (1980).

24. The best-known recent example is Justice Powell's decisive opinion in Regents of the Univ. of California v. Bakke,438 U.S.265,295 (1978).See also J.Noonan, *Persons and Masks in the Law* (1976).

25.Roberts v. United States Jaycees,104 S.Ct. 3244 (1984).Justice Brennan wrote the majority opinion;Justice O'Connor wrote separately and concurred in the judgment;Justice Rehnquist concurred in the judgment without opinion; and Chief Justice Burger and Justice Powell did not participate.

26. *Id.* at 3252.

27. *Id*. at 3249. Brennan's reference here is to the line of modern decisions, beginning with a married couple's successful challenge to Connecticut's proscription of birth control,which have relied upon a variety of theories of personal privacy--thought to include elements of individual autonomy and secrecy--but have been extended to relationships as well.

28. *Id*. at 3251.

29. *Id*. at 3255.

30. O'Connor concurred in part of Brennan's opinion and in the judgment. Rehnquist concurred only in the judgment, without opinion. There were no dissents, but Burger and Blackmun took no part in the decision.

31. *Id*.at 3258.

32. *Id*. at 3259.

33. Runyon v. McCrary, 427 U.S. 160 (1976)(42 U.S.C.§1981 held to reach and prohibit racial discrimination by "private,commercially operated,nonsectarian schools");Hishon v. King & Spalding, 104 S.Ct. 2229 (1984)(Title VII of the 1964 Civil Rights Act held to reach law partnership charged with gender discrimination in granting partnerships).

34. 102 S.Ct. 3409 (1982).

35. *Id.* at 3437.Stevens went so far as to say that "The claim that the expressions were intended to exercise a coercive impact ...does not remove them from the reach of the First Amendment." *Id*. at 3425. Undoubtedly, the unanimous decision, but with a separate concurrence only in the judgment without opinion by Rehnquist,is surely explainable in large measure by the Court's perception that what it was willing to call "the white establishment of Claiborne County" had denied blacks "the basic rights of dignity and equality that this country fought a civil war to secure. "*Id*. at 3429. In this sense, thsis case resembles

the NAACP freedom of association decisions of the late 1950s and 1960s discussed in H.Kalven,The Negro & the First Amendment (1965).

36. Id. at 3437.

37. Board of Directors,Rotary International v. Rotary Club of Duarte, jurisd. postponed until hearing on the merits,55 U.S.L.W.3313 (Nov. 4,1986).

38. Moose Lodge No. 107 v. Irvis,407 U.S. 163 (1972)(holding state insufficiently implicated to find state action,except in one minor particular).

39. 103 S.Ct. 2017 (1983)(upholding authority of Internal Revenue Service to deny Section 501(c)(3) tax exempt status to schools that discriminated on the basis of race in admissions or school policy,despite religious claims of such schools).

40. For example,Chief Justice Burger's majority opinion spoke of a mysterious "unusually strong case of legislative acquiescence" in implicitly ratifying IRS rulings, which in fact followed years of litigation. Burger argued that, " Non-action by Congress is not often a useful guide, but the non-action here is significant."Id. at 2033.

41. Id. at 2029.

42. Id. at 2026.

43. Allen v. Wright, 104 S.Ct. 3315 (1984)(injury to black children in districts undergoing desegregation held not to be "fairly traceable" to challenged Internal Revenue standards about denial to tax exempt status to racially discriminatory private schools).

44. 103 S.Ct. 1997 (1983). Then-Justice Rehnquist wrote the majority opinion and Justice Blackmun,joined by Justices Brennan and Marshall,concurred.

45. Id. at 2000.

46. 105 S.Ct.3439 (1985).Justice O'Connor wrote for four justices. Justices Blackmun,joined by Justice Brennan,dissented as did Justice Stevens.Justices marshall and Powell did not take part in the decision. The case reached the Supreme Court after extensive and somewhat complicated maneuvering in the lower courts and within the executive branch.

47. Id.at 3453-54.

48. Quoted by Judge Mikva in the lower court decision in TWR, 676

F.2d 715,726-7 (D.C.Cir.1982).

49. *See,e.g.*,Henkin,"Shelley v. Kraemer; Notes for a Revised Opinion," 110 U.Pa. L.Rev.473 (1962);Soifer, "Complacency and Constitutional Law,"42 Ohio S. L.J. 383 (1981).

50. *Compare,e.g.,* Valentine v.Chrestensen,316 U.S. 52 (1942) *with* First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978).

51. *See* ,*e.g.*, *Posadas de Puerto Rico Associates v. Tourism Co. of Puerto Rico*, 106 S.Ct. 2968 (1986) and discussion and sources cited in Soifer, *supra* note 12, though the majority opinion in the Puerto Rican advertisement case relies on a very peculiar version of the concept that the greater power necessarily includes the lesser power.

52. Thus, I think that *Bellotti*, *supra* note 50, is incorrectly decided and that there is something to the majority's concern about coerced political contribution in cases such as *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), though the attempt to police the boundary has proven problematic, to say the least.

53. *See,e.g.*,"There's Big Money in the 'Non-Profits,'" Newsweek Magazine 38 (January 5,1987).

54.*See* Blasi, *supra* note 10.

55. *See.e.g*.,Lewis," A Preferred Position for Journalism?" 7 Hofstra L. Rev.595 (1979) and others in the same symposium,as well as the symposium articles in 34 U.Miami L.Rev. 785 (1980).The debate was touched off by Justice Stewart's theoretical discussion in Stewart, " Or of the Press," 26 Hastings L. J. 631 (1975).

56. Tocqueville, *supra* note 3 at 517.

57. *Id*. at 518.

58. *Id*. at 697.

59. Citizens Against Rent Control v. City of Berkeley, 104 S.Ct. 434,436 (1981).

60. Widmar v. Vincent,104 S.Ct.269, 273 n.5 (1981).

61. Justice Oliver Wendell Holmes, Jr. announced that this was his quest in Holmes,*The Common Law* (1881),a goal discussed and by Gilmore,*supra* note 25 at 53.